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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
General Sessions Court

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2021-GS-07-00981, -00982
Appellate Case No. 2024-000692

The State,

Respondent,

v.

Stephan Quinton Polite,

Appellant.

RECORD ON APPEAL
VOLUME 1 OF 2

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ATTORNEY FOR APPELLANT

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WITNESSES

Beaufort County Sheriff's Office

T. Calhoun

ARREST WARRANT NUMBER

2021A0710400136

ACTION OF GRAND JURY

True Bill

Melinda Haynes

Foreperson of Grand Jury

Date: MAY 05 2022

VERDICT

Guilty

Jerry K. Gould

Foreperson of Petit Jury

Date: 04.18.24

INDICT

DOCKET NO. 2021GS0700981

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

May Term 2022

THE STATE

vs.

STEPHAN QUINTON POLITE

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

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APR 29 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2021GS0700981

At a Court of General Sessions, convened on May 5, 2022, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about May 29, 2021, the Defendant, STEPHAN QUINTON POLITE, did, with malice aforethought, kill Anthony Rivers and Anthony Rivers did die as a proximate result of STEPHAN QUINTON POLITE's actions, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

WITNESSES

Beaufort County Sheriff's Office

T. CALHOUN

ARREST WARRANT NUMBER

2021A0710400137

ACTION OF GRAND JURY

True Bill

Melinda Haggins

Foreperson of Grand Jury

Date: MAY 05 2022

VERDICT

Guilty

Foreperson of Petit Jury

Date: 4-18-24

INDICT

DOCKET NO. 2021GS0700982

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

May Term 2022

THE STATE

vs.

STEPHAN QUINTON POLITE

Indictment For

Possession of Weapon During Violent Crime

SC Code: 16-23-490

CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED
APR 29 2024
SC Court of Appeals

STATE OF SOUTH CAROLINA	)	INDICTMENT
	)	
COUNTY OF BEAUFORT	)	2021GS0700982

At a Court of General Sessions, convened on May 5, 2022 the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about May 29, 2021, the Defendant, STEPHAN QUINTON POLITE, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: Murder and STEPHAN QUINTON POLITE was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

30-life

STATE STEPHAN QUINTON POLITE INDICTMENT/CASE#: 2021GS0700981

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) IN THE COURT OF GENERAL SESSIONS

RECEIVED
APR 29 2024
SC Court of Appeals

STATE)
VS.) INDICTMENT/CASE#: 2021GS0700981
)
STEPHAN QUINTON POLITE) A/W#: 2021A0710400136
AKA:) Date of Offense: 05/29/2021
Race: Black Sex: Male Age: 31) S.C. Code §: 16-3-10
DOB: SS#:) CDR Code #: 0116
Address:)
City, State, Zip:) SENTENCE SHEET
DL#* SID#)

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder

In violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor 104309 Defendant Scott W Lee 66471 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction** ☐ **County Detention Center,**

for a determinate term of 30 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed ___ years

and/or to pay a fine of $_____; provided that upon the service of ____ days/months/years/Time Served and or payment

of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
_____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.
☐ The Defendant Shall be Released from County Detention Center.

STATE STEPHAN QUINTON POLITE INDICTMENT/CASE#: 2021GS0700981

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total $_____ plus 20% fee: _____ $_____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel. Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/Deputy Clerk: Rebecca F. Stone Presiding Judge: _____

Court Reporter: Kymberlee Williams Judge Code: 2139

Sentence Date: April 18, 2024

5Y

STATE STEPHAN QUINTON POLITE INDICTMENT/CASE#: 2021GS0700982

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE COURT OF GENERAL SESSIONS

RECEIVED
APR 29 2024
SC Court of Appeals

STATE

VS.

INDICTMENT/CASE#: 2021GS0700982

STEPHAN QUINTON POLITE
AKA:
Race: Black Sex: Male Age: 31
DOB: SS#:
Address:
City, State, Zip:
DL#* SID#

A/W#: 2021A0710400137
Date of Offense: 05/29/2021
S.C. Code §: 16-23-490
CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Possession of a Weapon during a Violent Crime

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45 (CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor 10420 SC Bar # Defendant Attorney for Defendant 66471 SC Bar #

WHEREFORE, the Defendant is committed to the ☑ **State Department of Correction** ☐ **County Detention Center,**

for a determinate term of 5 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed ___ years

and/or to pay a fine of $_____; provided that upon the service of ____ days/months/years/Time Served and or payment

of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
_____ days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

STATE STEPHAN QUINTON POLITE INDICTMENT/CASE#: 2021GS0700982

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing

☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program

☐ Mental Health Counseling ☐ May serve W/E beginning: _____

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total $_____ plus 20% fee: _____ $_____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		$
Fine may be pd. in equal consecutive weekly/monthly pmts. of $ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		$
§14-1-211 (A)(1)(Conv. Surcharge)	$100	$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	$41	$
§50-21-114 (BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)	TBD	$ 3.75
☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees	$500	$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	$
	TOTAL	$ 128.75

Clerk of Court/Deputy Clerk: Rebecca R. Simon

Court Reporter: Kymberlee Williams

Presiding Judge: [signature]

Judge Code: 2139

Sentence Date: April 18, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT	)	Indictment #s: 21-GS-07-00981 & 21-GS-07-00982 (Murder; PWDCVC)
STATE OF SOUTH CAROLINA	)	
-versus-	)	VERDICT FORM
STEPHON Q. POLITE, Defendant	)	

1. **On the charge of Murder, we the Jury, unanimously find the Defendant Stephon Polite:**

_____ **Not Guilty**

__X__ **Guilty**

*** If "Not Guilty", stop your deliberations and notify the Bailiff that you have reached a verdict.**

*** If "Guilty", proceed to #2**

2. **On the charge of Possession of a Weapon During the Commission of a Violent Crime, we the Jury, unanimously find the Defendant Stephon Polite:**

_____ **Not Guilty**

__X__ **Guilty**

Please notify the Bailiff that you have reached a verdict

Jury K Guild 04.18.24

Foreperson **Date**

STATE OF SOUTH CAROLINA — IN THE GENERAL SESSIONS COURT
2021-GS-07-00981, -982

COUNTY OF BEAUFORT

State of South Carolina,

Plaintiff,

vs.

Stephan Q. Polite,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME I
PAGES 1 - 179

April 15, 2024
Beaufort, South Carolina

B E F O R E:

The Honorable **BROOKS GOLDSMITH**, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

evening you'll have to call the number that you have to see if there's any instructions for you, because you'll be called and there will be more than one set of instructions on there, and the one that you will want to listen to is the one for the trial jury, you're the trial jury.

We think that message is gonna say, "9:30 in the morning." Possibly it might say something else, I'm just not sure. Anybody have any questions about what to do? We're getting ready to let you go until 9:30 in the morning, but you have to call this evening to make double sure that that's what we're doing.

Any questions? Ladies and gentlemen, we'll see you in the morning at 9:30, you're excused.

BAILIFF: The jury is cleared, Your Honor.

THE COURT: 1:30, is that a good time for us to start at? We're recessed until 1:30.

(Court's Exhibits 1 - 2 admitted into evidence.)

(Luncheon recess)

PROCEEDINGS CONTINUED

THE COURT: Would either of you happen to have that case from last year, that talks about the Judge's responsibility in these kind of hearings?

MS. MOLINA: The 2022 case, about the Judge is the finder of fact, yes sir, I have it.

THE COURT: I can't access West Law --

MS. MOLINA: Me neither.

THE COURT: -- so I can't get it.

MR. LEE: Do you want me to make a copy?

THE COURT: Thanks. And we're ready whenever you are.

MR. LEE: Yes, sir. Do you want to see it?

MS. MOLINA: If you want to.

MR. LEE: I think I gave you copies earlier in your Chambers of the pretrial motions that I had filed in this case. Do you have copies of them?

THE COURT: I'm sure I do.

MR. LEE: I have another set if you --

THE COURT: I've got several.

MR. LEE: Okay, you've got it? Okay, good. Judge, I'm leaving the stand your ground for later. The motions that I've filed, one is a

motion to sequester the State's witnesses --

THE COURT: Right.

MR. LEE: -- for obvious reasons, just to make sure that they won't hear what is testified to, whether it's a pretrial hearing, or during the trial, so I would respectfully move to sequester the State's witnesses while other witnesses are testifying, other than, of course, law enforcement.

MS. MOLINA: I have no objection to the sequestration of my witnesses. We do have a couple people who are in the courtroom, and they're not on my witness list, or maybe just one person, Doris Johnson, and so, she's not on my witness list.

MR. LEE: Okay.

MS. MOLINA: And your motions for my witnesses, I would ask that she be allowed to stay.

MR. LEE: Doris Johnson?

MS. MOLINA: Yes.

MR. LEE: No objection to that.

THE COURT: All right, witnesses are going to be sequestered. Johnson's not subject to the sequestration, all right.

MR. LEE: All right. Your Honor, I also filed a motion -- a Jackson v. Denno motion to determine admissibility of statements. It appears that the only statement that is out there, that arguably is attributable to my client, is that June 1st, 2021 interview, in which his lawyer at the time was Mr. Moss, Jim Moss contacted Byrd directly, Investigator Byrd, and said that they wanted to come down and provide certain information to law enforcement. So it was a voluntary -- they went down there voluntarily, he wasn't Mirandized.

Mr. Moss started off by saying that he wasn't going to let him talk, and then a minute or so later, he's asking him questions. Moss is asking him questions, and he's kind of piping in on some things. So, quite frankly, I don't object to that statement coming in. If Ms. Molina wants to go through a Jackson v. Denno, I don't have any reason to think it was given involuntarily, or under duress, or anything like that, but I'll defer to her.

MS. MOLINA: If he's agreeing that it was voluntarily made, that's all that we would need the Denno for. He's not in custody. He wasn't

given Miranda, because he wasn't in custody, and he came down with his lawyer, so freely and voluntarily.

MR. LEE: And left right after.

MS. MOLINA: Uh-huh, and his girlfriend was there too.

MR. LEE: Right. Okay. Easy enough. Your Honor, I also filed a motion to determine admissibility of prior bad acts, under Rule 404B of the Rules of Evidence, as well as State v. Lyle. I'm not aware Ms. Molina of any Lyle information that they will attempt to introduce, but in an abundance of caution, I filed that motion to see if she intends to include a hearing on that.

MS. MOLINA: I am not aware of any prior bad acts by the Defendant that would have come in. He doesn't have a prior record. As far as I could tell, his only contact with law enforcement was about the victim.

THE COURT: Then none will be admitted, without further hearing. In other words, just--

MS. MOLINA: And on -- yeah, and on that -- sorry, Judge, and on that point, I don't -- I'm

not aware of any specific prior difficulties between the Defendant and the victim. I mean there was a vague, alluding to one by Mr. Moss, but it's not clear, so I say that to say, are there any --

MR. LEE: I think one of the victims may have said something about they had been in a fight years earlier, or something like that. Do you remember that?

MS. MOLINA: At like -- yes.

MR. LEE: Yes.

MS. MOLINA: So just to make sure we're on the same page with Lyle.

MR. LEE: Okay.

THE COURT: All right.

MR. LEE: And then the motion for admissibility of prior convictions. I'm not aware of any convictions. There might be a DUS out there, but certainly nothing that would be admissible, in the event he chose to testify, that I'm aware of.

MS. MOLINA: None that I'm aware of, other than --

THE COURT: All right, that's settled, none.

MS. MOLINA: -- his speeding.

THE COURT: None.

MR. LEE: Your Honor, I also filed, what I call a motion to reveal the deal. I do that in every case, and, basically, if the Solicitor's offered any witness, it usually involves co-defendants, but if they're offering any witness, any type of preferential treatment, or favors, or anything like that, I would ask to know about those prior to the witness testimony.

MS. MOLINA: No witness has been offered anything.

THE COURT: No deal.

MS. MOLINA: No deals.

MR. LEE: No deals to reveal.
Your Honor, I also filed a motion to determine admissibility of photographs. I don't know which ones yet she intends to introduce.
She may not know yet, but, obviously, if there's any impromptu photos, or anything that, you know, is under 403, that the prejudicial effect greatly outweighs the probative value, I would just like to address that at pretrial, so that it doesn't become an issue later on.

MS. MOLINA: I did not plan to introduce

any autopsy pictures, any pictures at the hospital of the victim. I think I have a bloody shirt, and then the items collected at the scene, that includes a bloody bag and towel, but --

THE COURT: You're familiar with those of course?

MR. LEE: I think -- I haven't looked at all the pictures. I assume -- I think I know which one it is.

MS. MOLINA: No, there's no pictures of injuries. I can --

MR. LEE: Or of the deceased?

MS. MOLINA: Or of the deceased.

MR. LEE: Okay.

THE COURT: Well, if anything comes up, you have to get permission of the Court in advance, before you do it.

MS. MOLINA: Yes, sir.

MR. LEE: All right, and when we take a break, or finish, I'll go through what she has, but I don't think that's gonna be an issue. Judge, based on the trail I tried 5 or 6 months ago, we had a little bit of issues. I don't think that's an issue in this case, but I have

filed a motion to prevent any spectators from displaying any signs of support, or, you know, RIP buttons, or tee-shirts that are screen-printed, or anything like that.

So I don't think anybody intends to do that, but I would respectfully ask that nobody be allowed to do that in the presence of the jury.

MS. MOLINA: I would agree. The State doesn't have an issue with that, and I think you said it, but everyone is -- so there's no side that would support that.

MR. LEE: All right. Judge, that's all I would have, other than the stand your ground motion. That's all the defense has. I don't know if she has anything little to do, as far as stand your ground.

MS. MOLINA: The only other one that we talked about back there, is no cellphones in the courtroom.

MR. LEE: Great.

THE COURT: Yeah. I've already told the jury that. Witnesses are sequestered. I think everybody -- both sides have agreed that there will not be any cellphones on or used to take

pictures. So if anybody sees that, they need to let us know.

MS. MOLINA: Yes, sir.

MR. LEE: Do you have anything else?

MS. MOLINA: Not at this time.

MR. LEE: Okay. Judge, the final motion that I have is a stand your ground motion, which is codified under South Carolina Code 16-11-410, and the following subsections, or sections. I'd be glad to pass a copy of the law up to you if you --

THE COURT: I've got it.

MR. LEE: -- need it.

THE COURT: Okay. No, I don't. Well, go ahead.

MR. LEE: Okay. Judge, I know we passed up State vs. McCarty. This statute was passed in 2006, and it has a little bit of on interesting history, and that has kind of been developed on its own, because when it was written, and to this day, the Legislature never really provided the lawyers and the Judges any real framework, as to this is how these proceedings are gonna happen.

And for several years, defense lawyers were

filing these, and if they did not prevail, they were immediately appealing them to the Court of Appeals, and it would tie everything up for 2 to 3 years, and finally the Court said, "Look, this is something that is not immediately appealable by the defense, and it could be done pretrial". It can be appealed by the State, of course, but they didn't provide us a whole lot of framework early on about how to conduct these hearings. I've had them where they've been very formal, I've had them where they've been very informal, and in talking to Ms. Molina, I think what we're gonna try to do is, to try to speed it along for everyone, and I don't think we're gonna get a lot of hearsay objections, and that sort of thing.

So I think the way that we would propose to do it is, at least, initially, for me to call Investigator Byrd, who's the lead detective on this, and add -- do as much as we can through him, rather than having to call every single witness, that may have spoken with him, and that suits the defense, and that suits the prosecution to do it that way.

MS. MOLINA: Yeah, that suits.

MR. LEE: Okay, all right. All right, Judge, just very briefly, where I was gonna go with this, is when this type of -- and this is a case in which the statute is gonna be invoked for when the final -- I'll say when the fatal shot happened, and there's no dispute that my Defendant, my client, was in the car.

And, clearly, the statute provides that if you're in your vehicle, that the protections of the castle doctrine extend to your vehicle, in your house, and to your place of business. I don't think there's any dispute whatsoever, that he was --Stephan was in his car, that the shot was fired from his car, and that Mr. Rivers passed away as a result. So I think it's pretty straight forward, as far as stand your ground goes, but when you have these hearings, and McCarty talks about it in State v. McCarty, and State v. Glenn, which I will pass up before we finish. State v. Glenn, Madam Court Reporter, is a 2019 case, Supreme Court of South Carolina, and the citation is 429SC108, and going along with what Glenn kind of gives us the framework, it says that when this is raised, that the trial court should first consider through evidence at

the hearing, whether or not the Defendant has proved the elements of self-defense, and we'll talk about those, the 4 elements of self-defense, by a preponderance of the evidence.

And so what the cases say is, we have the burden by a preponderance, which isn't a big burden, but it's still -- it is a burden for the defense, and go through the 4 elements of self-defense, and the Judge acts as the fact-finder, and determines credibility of evidence, etcetera, etcetera, and requires the Judge to actually be a judge of the facts in this type of case. There was a litany of cases where a lot of Judges were saying, "Well, it's quintessential jury's question. There was different testimonies, so only a jury can decide that."

Those cases say, Judges for this, you need to step up, and you need to make findings, and decide, as a fact-finder, whether or not the defense has proved by a preponderance, the 4 elements of self-defense. So that's the first inquiry that you look into. If the Defendant establishes all 4 of them, by a preponderance, then the immunity is granted. If the Defendant

-- if the evidence from the Defendant is lacking, as to the elements of reasonable fear, or the duty to retreat, it says, "All right, Judge, now you need to go to the statute, and you need to go to those 2 elements," the reasonable fear, and the duty to retreat, and under the castle doctrine, it says that under 16-11-440A, it says that under appropriate facts the reasonable fear element may be satisfied by providing a -- well, actually, it provides a presumption. The statute provides a presumption that if the persons fear was reasonable -- it provides a presumption that if the person's fear was reasonable under certain circumstances, and it goes to talk about those circumstances in which you presume, as a matter of law, that the fear was reasonable, which is really the second and third elements of self-defense.

And under 16-11-440A, it talked about a person's presumed to have a reasonable fear of imminent peril, or death, or great bodily injury to himself or another person when using deadly force, and it says, number 1, it talks about if you've occupied the vehicle. So if someone, against whom the deadly force is used, is in the

process of unlawfully and forcefully entering, in the process of it, or has unlawfully and forcefully entered a dwelling, residence, or occupied vehicle, which is the case here, or if he removed, or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle, and it says, who uses deadly force, knows, has reason to know, that unlawful, and forceful entry, or unlawful and forceful act, is occurring, or has occurred.

And it says that presumption, if you're in your vehicle, that there's a presumption that you're in fear, that there's a -- and that that fear is reasonable. And there is an exception to subsection B, which says a person has the right to be in the vehicle, which in this case, there's no suggestion of that. So the presumption of reasonable fear is there, and that's kind of where we're gonna go with this.

Similarly, if in your initial determination, you said, "Hey, he didn't satisfy number 4", which is the duty to retreat, you then go to 16-11-440C, which essentially says, if you're in your house, in your business, or in your car, there is no duty to retreat in the

face of any type of attempt to get into your house, or getting in your house, or getting in your car, or attempting to get into your -- in your car, and so C talks about that, and says that there is no duty to retreat.

He has the right to stand his ground, and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death, or great bodily injury to himself, or another person, or to prevent the commission of a violent crime, as defined in 16-1-60. It then goes -- and it further goes on to say that it is presumed, under that statute, that it falls within 16-1-60, if someone's trying to get into your car.

So I didn't do a great job, but that's kind of what we have to do. We've got to put up the evidence, you decide whether all 4 of the elements are met or not. If they are, you make a factual finding, he's immune for prosecution. If he's missing number 1 or number 4, you can go to the statute, and there are presumptions for both of those that sometimes overcome a lack of proving that at the initial examination that you look at for self-defense.

So that's my best effort to try and explain where we go, and what this was all about.

THE COURT: All right. Ms. Molina?

MS. MOLINA: Are we arguing --

MR. LEE: I guess I was doing opening statements.

MS. MOLINA: -- or doing --

THE COURT: I don't know.

MS. MOLINA: Yeah.

MR. LEE: I guess that was kind of an opening statement, because, again, they don't really tell you that, so my plan would be to call Investigator Byrd --

THE COURT: All right.

MR. LEE: -- to the stand, and elicit testimony from him regarding the elements of self-defense in this case.

THE COURT: Okay. You disagree with his legal synopsis?

MS. MOLINA: I mean I agree that the law says what it says.

THE COURT: Okay

MS. MOLINA: And I think the facts and our case law argument perhaps will differ, but --

THE COURT: Okay.

MS. MOLINA: -- I was under the impression he was kind of just giving us an overview --

MR. LEE: I was.

MS. MOLINA: -- and we're not arguing at this time.

MR. LEE: Absolutely, that was supposed to be like an opening statement.

THE COURT: All right, well, I'm ready to go ahead and move forward.

MR. LEE: All right. Call Investigator Byrd, Your Honor.

***

ROBERT BYRD,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. LEE:

Q And I never know your rank, what do I need to call you?

A Sergeant now.

Q Sergeant now.

A Yes, sir.

Q All right. Sergeant Byrd, are you still employed by the Sheriff's Office?

A Yes, sir.

Q Okay, and what is your job description now?

A My job description now is I'm an investigator in digital forensics, digital investigations.

Q But on May 29th of 2021 you were working as an onsite detective?

A I was in Northern Investigations Division, and I was, if I may, I was not the on-call investigator, but --

Q Right.

A -- I was within the Northern Investigations.

Q All right. Is it safe to say that you essentially were and are the lead investigator for this case?

A I was.

Q So everything kinda comes through you, right?

A Yes, sir.

Q Okay. And as part of your job, as far as being lead investigator, it appeared that there's a 63-page report, which is a compilation of your reports, supplemental reports from other officers, etcetera. Is that 63-page report

essentially your report that incorporates other ones? Apparently, there may be a 7-page supplement, but the reports --

A I haven't --

Q While you may not have written them, you've read them, you've adopted them, you've taken them into consideration as part of your job, right?

A It -- I -- I have a different number than 63, but, yes, sir.

Q And she said there may be a supplement page.

A Yes, all the reports, yes.

Q Okay, but everything goes through you, right?

A Yes, sir.

Q Okay. So you're probably the best guy to talk about this case on a global level, right?

A Maybe.

Q As lead investigator.

A Yes.

Q Okay, all right, okay. So you were, I guess, on-call, or happened to end up going out to -- it's 10 Keystone Circle? Did you go out

there that night of the incident?

A I was gonna tell you that Staff Sergeant, at the time, Staff Sergeant Duncan, and I was requested to respond to 10 Keystone Drive on St. Helena.

Q Okay. So you went out there at some point that night, right?

A Yes, sir.

Q Do you know what time the report was made, and the 911 call was made?

A It --

Q You can look at your report.

A If I may.

Q It's like 22:49?

A 22:49 and 14 seconds, yes, sir.

Q Okay. So that's approximately when this happened?

A Yes, sir.

Q Give or take.

A Yes, sir.

Q And do you know what time you got out there approximately, in relation to 10:49 p.m.?

A I would have to look at the radio CAD call, or CAD log.

Q If you don't, that's no big deal.

A It would be -- well, I do actually know, if I may? The crime scene log has me responding around at 00:27.

Q Okay. All right, and also when you got out there, there were already people out there, right?

A Yes.

Q And as far as the scene, have you been out there before?

A Prior to this?

Q Yeah.

A No, sir.

Q Have you been out there since?

A Yes, sir, the following days.

Q Okay, fine. Is it safe to say that absent all the sirens and lights and stuff, that it's a pretty dark area back there, as far as being well lit on that Keystone Drive, right there where 10 is?

A Yes, sir.

Q Okay. There's no streetlights, or anything like that, correct?

A Not to my recollection --

Q Okay.

A -- no, sir.

Q All right. And obviously it was dark at 00:27 when you got there, right?
A Yes, sir.
Q Okay. All right, so when you got out there, do you remember who was there?
A As --
Q Not in law enforcement.
A Okay, not in law enforcement.
Q Sorry.
A Arthur Washington.
Q Alexis Smalls?
A Alexis was there.
Q Do you know if Natasha Robinson was there?
A I don't believe she was there.
Q Okay. Do you know if Althea Brown was there?
A I don't.
Q Okay.
A I don't know.
Q All right.
A I don't recall him being there at that time.
Q Well, let me ask it a different way, who, if anyone, did you speak to, other than law

enforcement, that night that may have been a witness and may have some information at the scene?

A That night my interaction was very limited. Staff Sergeant Duncan, when he arrived, he kind of had some interviews with Arthur and Alexis kind of talking. My primary focus at that moment that night was the collection of the evidence and documentation of the evidence. I did have my interaction with the witnesses that were there.

Q Okay. And Arthur Washington and Alexis Smalls they live there, correct?

A Yes, sir.

Q And they live in a mobile home on Keystone?

A So when you get to Keystone and you get to the 90-degree turn --

Q Right.

A -- you turn back towards the right.

Q Right.

A Their mobile home is on the left.

Q Okay. And there's like a little -- is it kind of a 1-lane dirt driveway or road that goes down Keystone?

A Yes, sir.
Q Okay, and then right across from that 1-lane dirt road, there was something they called the G shed?
A Yes, sir, it's a --
Q I don't know what the G stands for --
A It's like --
Q -- do you?
A I don't know what G stands for either.
Q Okay.
A It's a wooden shed, commonly used for storage, or we've seen them be used for like get-togethers.
Q And this one actually had a little front porch on it, and fixed up on the inside, right?
A Yes, sir.
Q Okay. All right, and the G shed is where that night they were having a card party, right?
A My understanding they were.
Q Okay.
A And they were watching the NBA Finals.
Q Okay. So it had electricity out there, it had a TV out there, it had a dining table,

whatever the case may be, food out there, coolers, drinks, etcetera, right?

A My understanding, yes, sir.

Q All right. So it wasn't like a shed -- I mean, it's there, and then you close the door, right? I mean it was kind of a finished shed, right?

A My understanding. We did not go in.

Q Well, that's what I was gonna ask --

A So --

Q -- you, did you ever go inside the shed?

A I did not.

Q Did you ever take pictures inside the shed?

A I did not.

Q Did anybody?

A No, sir.

Q Okay. Once you learned information later on, and I realize that night you didn't know anything about the shed, once you learned more information about the shed through the witnesses, did you ever go back and take any pictures, or look at the shed?

A Once we kind of got some more

information, we did go back and speak with Arthur and Alexis, but we did not go inside the shed. We didn't take pictures inside the shed.

Q Okay. And are you aware of any type of diagram, sketches, drawings, photographs, etcetera, showing the inside of that shed?

A I'm not aware.

Q Okay. And the reason I ask about the shed is, because that -- going -- start going through the story, apparently, there was a card party/watching TV party going on, right?

A That was the plan, yes, sir.

Q All right, and is it your understanding that Arthur Washington and Alexis Smalls were the owner of that shed?

A Yes, sir.

Q And they live right across the street?

A Yeah -- yes, sir.

Q Okay. And Natasha Robinson, who we talked about a little bit, it appears that she rented out the shed to host the card game; is that right?

A I think she was present for the card game.

Q I mean if you don't know the details,

that's fine, but I mean typically, your understanding, that somebody will pay the owner to rent the shed for the night, and they will put on a card game, and have food and beverages and stuff like that? Do you know or don't know?

A No, sir.

Q All right.

A I know that they were having --

Q That'll save me some time.

A I know they were having a card game, I didn't -- I don't know of any contractual agreements --

Q Okay.

A -- or anything.

Q Okay. All right, so let's start going through the evening. And, again, referring to information you got from witnesses, etcetera, we'll kind of go through it. Stephan Polite went out there that night, right, playing cards, right?

A Yes, sir.

Q Everybody seems to agree on that, right?

A Yes, sir.

Q Okay, and did you ask anybody about any

of the card games? I mean did they say -- isn't it true that Stephan is a pretty good card player? Did that ever come up or not? That he wins a lot of cards.

A No.

Q Okay.

A They were playing tong.

Q Yeah.

A That -- and I remember that.

Q Okay. Tong is a card game? Okay.

A It is a card game.

Q All right, so he -- so Stephan's there and there's like 4 or 5 other people there; is that what your understanding is?

A Yes, sir, about.

Q Approximately?

A Yes, sir.

Q And I'm not trying to fool you, I'm just --

A Yeah.

Q -- trying to estimate.

A Yes, sir.

Q And one of the people there was a lady named Natasha Robinson, right?

A Yes, sir.

Q Okay, and you spoke with Natasha on June 2nd and June 3rd for the interview; did you not?

A Are those my dates?

Q Yes.

A Yes, sir.

Q Okay.

A I did speak with her twice.

Q Okay. You spoke with her twice. And you had trouble finding her, because they only gave you her nickname, right?

A Yes, sir.

Q I think Banger.

A Banger, yes, sir.

Q But you found her, and then you went and talked to her at her house, correct?

A Yes, sir.

Q Okay, and what Natasha says is, that she was there, correct?

A She was.

Q Natasha was there.

A Yes, sir, she acknowledged being there, yes, sir.

Q Okay, and that Stephan and some other people were there before Arthur -- let's just

call him A.J. I guess, or whatever you want to call him, Anthony rather, Anthony Rivers -- before Anthony Rivers got there, there were people there and they were starting to set up, and started playing cards, right?

A Yes, sir.

Q Okay. And then did you -- were you able to determine when Anthony Rivers got there?

A The exact time?

Q Yes.

A They --

Q Approximately.

A So -- no, sir, it's -- there was a lot of like gray area of the exact time.

Q Okay.

A And how long this whole --

Q Okay.

A -- thing happened.

Q Okay.

A I know it was before 22:28 or --

Q Yeah. Okay. And it appears that Stephan Polite got there somewhere between 7:00 and 7:30 I think Natasha said; does that sound right?

A That sounds about right, yes, sir.

Q Okay, but you don't know how long before Anthony Rivers showed up?

A No, sir.

Q Okay, but it appears it wasn't too much time after Natasha was there and Stephan, it appeared that he showed up, because of all the things that happened, it appears he was there for quite a while, right?

A Yes, sir.

Q Anthony Rivers? Okay.

A Yes, sir.

Q Okay. All right, and Natasha Robinson saw Anthony Rivers -- the first time she saw him she said he was losing his mind, and holding his head, and raising his head and screaming; do you remember that?

A Yes, sir.

Q All right.

A And I think she actually acted it out.

Q Okay, just kind of going like that?

A Yes, sir.

Q Okay, and so for no apparent reason he was screaming, yelling, and that sort of thing, right?

A Yes, sir.

Q Okay, and then he said to her, "You whacked, Banger," said that to Natasha Robinson, right?

A Yes, sir.

Q Okay, so then Natasha said, "What is wrong with you," right? So it was like she was saying to Anthony Rivers, "What is wrong with you," right?

A Yes, sir, she said she kind of ignored him and continued to have a good time.

Q Okay. And then Pumpkin, or Althea Brown, Pumpkin said something to him at some point, right? According to Natasha Robinson.

A Yes, sir.

Q Okay, and he said something about, "I'm not MF'ing," without saying that, so he was -- that's kind of the general theme is that he's throwing MF around, nobody's talking to him, he's screaming, he's holding his head, he's acting crazy, right?

A Yes, sir.

Q And that seems to go on for quite a while, right?

A Yes, sir.

Q Okay, and then so some of the other

people that are there are saying, like Akeem Chaplin said, "What's wrong with you? Are you all right?" He talks about that, right?

A Akeem -- they said Akeem did say something, and Akeem just kind of ignored him.

Q Okay, but everybody is like, "What is going on with this guy," right? I mean he's acting crazy, for lack of a better word, right?

A Yes.

Q Would you agree with that?

A Yes, sir.

Q Okay. And then, apparently, Anthony Rivers goes over and starts patting down Akeem Chaplin, like to see if he had a gun on him or something, right?

A Yeah, he was patting him.

Q Okay.

A Yeah.

Q And then he kind of did the same thing to Stephan, right?

A Yes, sir.

Q Okay, and then Arthur Washington is there as well. Well, actually, let's back up. At some point Akeem Chaplin pushes Rivers away, and Rivers tells him, "You a bitch, you a pussy,

you can't smoke me."

And was that -- and I don't want to keep saying that, 'cause it was said a lot, but I mean is that kind of what he was doing, challenging people?

A Several people said that, yes, sir.

Q Okay, all right. And then he turned his -- and then Arthur Washington, who I think is kind of best friends with the owner of the house?

A Yes, sir.

Q Okay, and Arthur and his wife, Alexis, kind of look out for him, and socialize with him, and spend a great deal of time with him, right?

A That he was in the yard trying to just calm him down, and hang away from everybody.

Q Okay. And so Arthur says, "Hey, man, what's wrong with you?" So even his best friend is saying, "What's wrong with you," right? And his response was, "I'm not fucking talking to you, Arthur." Does that sound like --

A Yes, sir.

Q -- what went on?

A At some point.

Q Okay, all right. And then at some point Anthony Rivers directs his attention to Stephan Polite, correct?

A Yes, sir, at some point.

Q Okay, and according to Natasha Robinson Stephan is his cousin, says to him, "Hey, man, calm down, chill out," right?

A He told Anthony, "Calm down and chill out."

Q All right, and Natasha had previously described Stephan a few minutes earlier as laughing, joking, having a good time, no problems, right?

A Right.

Q Okay.

A Yes, sir.

Q Stephan was like that, okay. And so then Rivers starts trying to pat down and mess with Stephan, right?

A Yes, sir.

Q And he tells him, Rivers says to Stephan, "You can't kill me, you a bitch;" is that consistent with --

A That's consistent with what Ms. Robinson said.

Q Okay. And then Ms. Robinson says that Rivers chested him up -- chested Stephan, and pushed him to the wall, said, "You pussy ass, you're a pussy;" is that --

A Yes, sir.

Q Okay. All right, so he's physically chesting him up, pushed him, and then called him names, correct?

A Yes, sir.

Q So at this point all these people said, "What is wrong with you? What are you doing?" And his response was, "I ain't talking to you," blah, blah, all that, cuss words and that sort of thing, right?

A Yes, sir.

Q All right, so let's back up for a second. Natasha Robinson, she's known him for --

A Since she took care of him when he was a kid.

Q When he was like a 3-year-old kid, right?

A Maybe, yes, sir.

Q So she's known Stephan all that amount of time, right?

A Yes, sir.
Q And she's also known Anthony Rivers, correct?
A Yes, sir.
Q Since he was a kid, okay?
A Said she knew them when they were kids, and she left in '90 --
A Yeah, in '90.
Q Okay, and she says several times, "I've never seen him act like that before," right?
A Yes, sir.
Q She said he's not even ever cussed at her before, correct?
A That he was very respectful and polite, yes, sir.
Q Right, until this night?
A Yes, sir.
Q Okay. He was not like himself?
A Yes, sir.
Q Okay. He was loud, belligerent?
A Yes, sir.
Q Aggressive?
A Yes, sir.
Q Okay. And then it appears that Art, his best friend, pulls him away -- after he

chested up Stephan, he pulls him away from him, and Rivers says, "Fuck that, kill me." And then so everybody's saying, "What is wrong?" And then Art goes onto say, "Hey, man," talking to Rivers, "what are you on? What the fuck are you taking?" That's what Natasha told you, right? "What are you on? What are you taking? What's wrong with you," right?

A Yes, sir.

Q Okay. And Rivers in response to that says, "F that, kill me, smoke me, kill me." And Art says, "Let's go outside and talk," right?

A Yes, sir.

Q Okay. And after Natasha Robinson told you that during the interview, she said, this is at -- "I ain't never seen nobody possessed by a demon before, but I swear it was," and I couldn't understand the last word, but it was something.

A Yes, sir.

Q Do you know what that is?

A No, sir.

Q Okay. So Natasha Robinson, who's right there, is saying, "I ain't never seen somebody possessed by a demon before, but I swear he was

possessed," right?

A Yes, sir, he was acting like that.

Q And that's the guy that she knew as a child, known him forever, never seen him like that? Never seen him cuss at a woman before, and he's acting like, and she's never seen it before, right?

A Yes, sir.

Q Okay. And then she talks about they're trying to get Rivers out of the shed, before, you know, I guess everybody's worried about him, scared, whatever, they're trying to get him out of the shed, right?

A At some point, they're trying to get him out of the shed.

Q Right.

A And at that same time and, if I may?

Q Sure.

A She explains that they're trying to deal with him in the shed, and Stephan leaves the shed and goes to his car --

Q Uh-huh.

A -- and gets a gun.

Q Right, right.

A And then he comes back to the shed.

Q Right, okay, all right. And she talks about maybe a 10-minute effort in them trying to move him out of the shed. He's hanging onto the walls, they're pulling him, and they can't get him to get off the porch. He grabbed a porch rail, and then both Arthur and Anthony Rivers both fall down, right, on the steps?

A At some point, yes, sir.

Q Okay. And Arthur falls back towards the thing, and Anthony Rivers, what does he do? He goes right back into the shed, right?

A Yes, sir.

Q Okay, acting the same way, right? Is that right?

A And he -- and they go back out.

Q All right. And at that point when Anthony goes back in the shed, after fighting his best friend, after saying all this stuff, acting crazy, bumping people and chesting people and stuff, he goes back in the shed and Stephan's in the shed, right?

A Yes, sir.

Q Along with some other people, right?

A Yes, sir.

Q And Stephan, at that point, according

to Natasha, points a gun at him, right?

A Points a gun at him, yes, sir.

Q Okay.

A That he had just retrieved from his car.

Q Okay. And so then Art and Stephan pull Anthony Rivers out of the shed, right?

A Yes, sir.

Q Okay. And they got him on the ground, and according to Natasha, Anthony Rivers is saying -- he's going super crazy saying, "Smoke me, kill me;" is that right?

A Yes, sir. And she explains that she in her second interview says, "That he's the type of person that if you make a threat, he's going to make you -- he's going to hold you to it. So when the gun was pointed that's where now he's going to," as she explained it, he's belligerent, because --

Q Okay.

A -- now a gun has been pointed at him.

Q Okay. Have you met anybody that's truly unafraid of being shot? Is that normal, is that rational to not be afraid of a gun?

A No, sir.

Q So then Rivers starts raising cane again, and Alexis, who is Arthur's wife and her house, he's going crazy, he's screaming, and he tells her to shut the F up, or the B word, shut the F up. And Arthur, his best friend, says, "You've got to leave," right?

A Exactly, yes, sir.

Q He's telling that to Anthony, okay?

A Yes, sir.

Q And then Anthony Rivers says, "You're gonna f'ing kill me." And so Art, his best friend, says, "Get out of here." And the next thing that Art does, according to Natasha, is Art goes and gets a shotgun out of the house, correct?

Arthur's best friend, who's trying to talk him down, he won't listen to him, Arthur goes and gets a gun, right? Correct?

A Give me one second. Yes, sir.

Q Okay, and Alexis sees that he's with a gun, because Alexis has told --

A And --

Q -- Rivers, "Hey, my kids are in the house, quit acting like this. I mean you're loud, you're," whatever, she's telling him. So

Art at that point goes and gets a gun, and Alexis when she sees him gets the gun says, "No, no, no." And the gun gets put in the shed, correct?

A Yes, sir.

Q Okay. So now there's a shotgun in the shed, right?

A I'm not sure where it got put, but I know Alexis grabbed it, and took it away from Art.

Q Okay. Because, again, Art has never seen him act like this before you said?

A No, sir.

Q Okay. And then Natasha said, "Anthony wouldn't give up. Kept trying to make runs to get into the shed."

A Yes, sir.

Q He's in the shed, right?

A Yes, sir.

Q And a few other people. And so according to Natasha, Stephan's in the shed, everybody's saying, "Let's just stay in here, let him calm down. Let's get him out of here so nothing happens," right?

A Yes, sir.

Q So then after 15, 20 plus minutes of these people being kept in the shed because they can't control Anthony Rivers, Anthony Rivers starts yelling into the shed at Stephan, quote, "I'm going to fuck you up, bitch. I'm gonna get your bitch ass;" is that what Natasha told you?

A Yes, sir.

Q Okay, so all this stuff happened, there's been a gun pointed at him, his best friend's gone to get a gun, everybody's trying to get him to leave and stuff, he's still doing all he can to try and get back in that shed where Stephan is --

A Yes, sir.

Q -- and other people? So then according to Natasha, after all that, Stephan said, "Look, you'all, I'm just gonna leave." He says that to Natasha and some other people, right?

A Yes, sir.

Q "I'm just gonna leave," right?

A Yes, sir.

Q Okay. And they're telling him, "No, no, no, no, no, don't leave." And so Stephan goes onto say, "Man, I'm trying to," they say, "Just wait in here." "I'm trying to wait, I

just wanted to hang out. I came to play cards, just chill out or whatever," okay? That's what happens, correct?

A Yes, sir.

Q So Stephan's getting -- is tired of just having to stay in the shed while Rivers is out there doing his thing outside, and screaming at him, and trying to get in the shed, right?

A Yes, sir.

Q Okay. And Natasha said that when he went to get the gun out of the car, she's like, "No, no, no," and he had told her, "Hey, I'm just gonna put it on my side, so he'll leave me alone," right?

A Yes, sir.

Q Okay. All right. And then he said that he'd been there for 20 minutes or longer. "I'm just gonna leave, I'm gonna get in my car and I'm gonna go." And then Natasha says, this is at 12 minutes and 10 seconds, that Stephan leaves the shed, and to use her words, you used it a couple times, "Stephan makes a beeline for his car," right?

A Yes, sir.

Q So he's trying to go from the shed to

his car, which is parked right by the mobile home, right?

A Yes, sir.

Q Okay. And Arthur and Anthony are kind of over a different way, so he doesn't have to go past them to make a beeline to his car, right?

A My understanding is that his car was more towards where that 90-degree is.

Q Okay.

A That it's --

Q But they're not together.

A -- not at the house, it was further down.

Q Okay. But she says, "Stephan made a beeline for his car, and then Anthony like gets loose of Arthur and comes towards him like he's gonna football tackle him."

A Yes, sir.

Q Do you remember that term and talking about that?

A Yes, sir.

Q So he breaks away again, and starts coming towards Stephan --

A Yes, sir.

Q -- who's been trying to go to his car to leave, right?

A Yes, sir.

Q Okay, and then she claims, "He put the gun up, he didn't shoot it, but as he's coming towards him, he hit him with the gun," right?

A Yes, sir.

Q And I think that happened twice.

A Yes, sir.

Q And the effect that had on Anthony Rivers was nothing, might have just made him madder, and he continued to fight, correct? Didn't they continue to fight?

A There was an altercation. I don't know if it was -- the way it was described, it really wasn't a fight, everybody says that Stephan beat him --

Q Okay.

A -- and beat him bad.

Q Okay. Well, it --

A And then --

Q -- was a fight, I mean it wasn't --

A There was an altercation there.

Q Whatever you want to call it.

A Yes, sir.

Q All right, and it appears Stephan got the better of that fight, correct?

A Yes, sir.

Q Okay, so Anthony's on the ground, Stephan apparently gets his gun back from somebody, because it hit the ground.

A Well, apparently, the gun fell down and the magazine came out --

Q Okay.

A -- and he gets that back from --

Q Gets it back and goes to his car, tried -- and goes to his car again, right?

A Yes, sir.

Q Okay. And Anthony Rivers who's just been in a fight is over there. Stephan gets in his car and he starts driving towards what you call the 90, just down Keystone, right?

A Yes, sir.

Q Okay. Because it's important, because at that 90 there's a gate right there, and then there's like deep ditches on the side of the road, right?

A Yes, sir.

Q So it's not a very wide road, and so as he's going towards that 90, Rivers, don't know

here he is at that moment, right?

A Rivers -- right.

Q But at some point as he's slowly driving down towards that 90, a car --

A Another car is coming in --

Q -- is coming in. Okay.

A -- to pick Rivers up.

Q Okay, to pick Rivers up.

A And Stephan has to slow down because of that vehicle.

Q Exactly, okay. And then Rivers in the meantime has gotten up, and has started going after Stephan's car, right?

A Yes, sir.

Q Okay. And depending on who you talk to, he's beating on the trunk, he's beating on the side of the car, etcetera, but as Stephan is literally leaving the place, he has to slow down, and he eventually has to stop, because the car is coming toward that 90, right?

A So it was --

Q Johnson is coming this way, and there's the 90 --

A You're right about the vehicle --

Q Okay.

A -- but it was described by one witness as a -- that Anthony was banging on the back of the car.

Q Uh-huh.

A Stephan slowed down, but the witness clearly says he did not stop.

Q Okay.

A Opened the door and shot.

Q Okay. What witness is that?

A That's Althea Brown.

Q Okay. Did you run Althea Brown's rap sheet? Do you know if she has like 10 or 12 fraud charges, shoplifting, and all that sort of thing?

A No, sir.

Q But at any rate, whether it slowed down a little bit, or a lot, or having stopped, Johnson is coming down the 90, Stephan's going this way, right?

A Yes, sir.

Q And the two vehicles can't go through the same spot, right?

A No, sir.

Q And so whether he stops completely or slows down a lot, at that point Anthony Rivers

has caught up with Stephan's car, right?

A According to all witnesses, yes, sir.

Q Okay.

A By all of them.

Q And ironically enough, sadly enough, Johnson was actually coming to the scene to pick up Rivers, right?

A Yes, sir.

Q Okay, and you actually spoke to Johnson's mom, I think her name is Doris, as part of this case, right?

A Yes, sir.

Q Okay, and Doris confirmed with you that Stephan Polite is the one that called Johnson to say, "Hey, come pick up Rivers, he's acting like an idiot, and he's cutting like a fool over here, come pick him up," right?

A Yes, sir.

Q Stephan called to get the guy ride out of there, because he was the way he was acting, right? Is that right?

A Yes, sir.

Q Okay. All right, and then at some point the car slows down, and the car stopped, etcetera, and Anthony Rivers gets shot, right?

A Yes, sir.

Q All right. And Natasha Robinson says, she swears, she said, "I swear, I think he rolled down that window and shot him through the window," right?

A She says that, yes, sir.

Q All right, but she said she may -- I think she said, "That might not have been true"; that's what she said --

A Yes, sir.

Q -- right? She goes, "Because some people are saying the door opened," right?

A Yes, sir.

Q Now, did you seize his car as part of the evidence to be searched and to be analyzed?

A The vehicle was seized under a search warrant, and --

Q Okay.

A -- it was processed.

Q Okay. As part of that process, did you see whether or not there was a broken window on the driver's side?

A Yes, sir.

Q There wasn't, was there?

A No, sir.

Q Okay. And, in fact, the driver's side window didn't even work; did you know that? The button didn't work?

A Yes, sir.

Q Okay, you found that? Okay.

A Yes, sir.

Q Okay. So there's not a window going down. So it appears that door would have to be open, in order for that -- for it to happen, for a shot to go out of the car into Rivers, right?

A Yes, sir.

Q Okay, but Natasha Robinson swears that she -- the window went down, she heard it, and all that kind of stuff, right?

A She says that she saw it.

Q Okay. And then part of your conversation with Natasha Robinson also was something about, did Anthony have a gun? And she said, "He never has a gun. He ain't got no gun." And she said, "That's why I think the devil played him," talking about Anthony Rivers, right?

A Yes, sir.

Q Do you know what that means?

A No, sir.

Q Okay. But, again, it would be consistent with someone being possessed, acting crazy, etcetera, right?

A Yes, sir.

Q Okay. Someone they'd never seen act that way before?

A By all accounts, yes, sir.

Q Okay. And Natasha Robinson goes onto say, "I don't know, I mean I don't even know what the hell A was on, man. He don't be acting like that.

I've seen him get into an argument, and I've got into an argument with him before, he never called me a bitch, he never used a curse word. He was the possessed dude, man." That's Natasha Robinson saying that again, right?

A Yes, sir.

Q Okay. And she also said, and we'll play some in a minute, she said, "By the time Stephan stopped his car, Anthony was at his window," right?

A Yes, sir.

Q Okay. All right, now, to your credit I mean you're sitting on her back porch talking to her, you actually said, "Hey, can you come

demonstrate to me where he was, where Anthony Rivers was in conjunction with Stephan Polite;" right?

A Yes.

Q Do you remember doing that?

A I do.

Q Okay, and you actually had her go demonstrate on your vehicle, right?

A I would -- or was it -- I can't remember.

Q Or a vehicle --

A I --

Q -- I don't know if it was yours or not.

A Yes, sir.

Q Okay. All right, we're gonna put this on. And your interview with Natasha Robinson was body-cam captured; is that right?

A Yes, sir.

Q Okay.

A You're talking about the one at her house?

Q Yeah, yeah.

A Yes, sir.

Q All right, here we go. Have you reviewed the video from that day, and is it

truthful and accurate?

A Yes, sir.

Q Accurately displays what went on?

A Yes, sir. It accurately displays my interview.

Q Okay, and it accurately shows what was said?

A Yes, sir.

Q Okay. And I'm flipping through it, but that's her sitting on the front porch, right?

A Yes, sir.

Q Okay. Start right about there. Well, let me back it a little bit. Hang on.

(Video being played for the Court.)

Q All right, so that was a demonstration that Natasha Robinson gave you, as far as the location of Anthony Rivers, in relation to Stephan Polite and his car, right?

A Yes, sir.

Q Okay, and she's not talking about just somebody banging on the truck, she says he came all the way around, and she essentially got him even with, or just right over Stephan's like left shoulder, right?

A Yes, sir.

Q Okay. And then we know that the door opened, right?

A Yes, sir.

Q I mean he got shot, so --

A Yes, sir.

Q -- unless the --

A It didn't go through the window.

Q It went --

A It didn't go through the window.

Q It didn't go through the window, okay. And there's no holes in the vehicle, right?

A No, sir.

Q Okay. And this type of car is a Grand Marquis; is that right, a sedan?

A It's a 1999 Grand Marquis.

Q Okay. And I assume -- it may be a dumb question, but I assume that the way that you open up the driver's door is with a handle, if it's back of the front door, right?

A Yes, sir.

Q Okay. Which is how far Anthony Rivers got, according to her, in relation to Stephan, right?

A Yes, sir.

Q Okay. And Stephan, I guess, through

his lawyer, the first interview with Mr. Moss a couple days afterwards, told you and said, "That Anthony Rivers is the one that opened that door," correct?

A That's his account, yes, sir.

Q Okay. And then you talked to Natasha Robinson the next day as well, right?

A She came to my office, yes, sir.

Q Because she wanted to talk a little more, right?

A Yes, sir.

Q But her story was consistent, as far as the way that Anthony Rivers was acting, right?

A Yes, sir.

Q Okay. Where he was in relation to Stephan with the car, right?

A Yes, sir.

Q Okay, and she even said he was right beside where the door opens, right?

A Yes, sir.

Q Okay. Didn't you ask her about -- I think she volunteered it, that she had -- somebody had seen her -- had seen him, Anthony Rivers, at the liquor store a couple hours before, right? The St. Helena Liquor Store? I

mean he bought a bottle of Jose Cuervo?

A Yes, sir.

Q Okay. And he said -- she goes, "I guess he might have drank the whole bottle. He and his coworker, I'm not sure of her name, went and got fucked up at Johnson Creek Tavern, where he worked sometimes," right? Or she works there.

A No, I don't recall.

Q Okay. And then she said something about, "He eats them yoppers," which turned out to be Ecstasy, right? "Anthony Rivers eats Ecstasy."

COURT REPORTER: What was the first word you said?

MR. LEE: Yoppers, Y-O-P-P-E-R-S, I think is the way you spell it.

COURT REPORTER: Thank you.

BY MR. LEE:

Q Do you remember talking about that?

A Yes, sir.

Q Okay. And she had seen him with some a few days before, and they have like aliens and mushrooms drawn on them, or stamped on them; do you remember that conversation?

A I vaguely recall that.

Q Okay.

A Yes, sir.

Q All right. And, again, twice on the 3rd she said again, "It was like he was possessed," she said that few times; did she not?

A Yes, sir.

Q Okay. And then later on she said, "I realized I just watched someone be demon-possessed. I've never seen someone out to die," right?

A Yes, sir.

Q She goes onto say, "That Anthony normally doesn't curse at females or his best friend, and even Art couldn't calm him down," right?

A Yes, sir.

Q And we know Art even went so far as to go get a gun, right?

A Art was offended, and he -- yes.

Q But then she kind of turns a little bit, and says, "Yeah, but," well, I think you asked her the first time. You asked her a question right before she showed you where he

was on the -- by the car. "Let me ask you this," is what you said, "do you think Stephan Polite was acting in self-defense?" And she paused, do you remember that? She paused for a while, and I can play it on here, if we need to.

A If you would.

Q Okay.

A Isn't that where she says, "I feel like it could have been avoided?"

Q Let me get to it, let me see.

(Video being played for the Court.)

Q So you asked her if it's self-defense, she pauses for a while and says, "Yeah, in a way, yeah," but then she says that she started thinking about it though, she said, "Well, he could have just kept driving," right?

A She says, "I feel like it could have been avoided."

Q Could have been avoided, all right. Did you tell her that if somebody's in their car, they have no duty to retreat? Did you discuss the elements of self-defense with her?

A No, sir.

Q Or it was just her opinion?

A Yes, sir.

Q Did you get the opinion that she might just have some kind of regret, or feel bad that she didn't do anything more to maybe stop him from doing this?

A Can you rephrase that?

Q Well, I mean do you think that her saying, it didn't have to happen, that she maybe looking in, and saying, well, I wish we could have gotten Anthony out of there. I wish something would have been different and he wouldn't be dead?

A Yes.

Q Which is easy to do, right?

A Yes, sir.

Q You just look back and --

A It's hindsight.

Q Yeah.

A Yes, sir.

Q Okay. So she had actually thought about it, and she had that feeling though, okay. Is it safe to say that everybody pretty much agrees that Anthony was kind of off-the-chain, just completely wild, crazy, possessed, whatever word you want to use? I mean did everybody pretty much agree with that?

A That's safe to say, yes, sir.

Q It's safe to say, okay. And it appears that this went on for quite a while, because Stephan got there at 7:00 or 7:30, this happened like almost three hours later, so there seems like there's a lot of time there where he's continuing to act like this, he's continuing, and they're trying to do things and nothing worked, right?

A Yes, sir.

Q Okay. Now, have you ever made any DUI arrests?

A Yes, sir.

Q Okay. And you're aware that the legal limit, the inference level in South Carolina is .08 blood alcohol content, correct?

A Yes, sir.

Q .08?

A .08.

Q Right. Now, they did a tox screen on Mr. Rivers, the victim, and they took blood and urine from him; are you aware of that?

A In -- for the autopsy, yes, sir, yes, sir.

Q And his blood alcohol concentration,

according to these results, were .316, correct? I can hand it to you, if you would --

A May I?

Q Yeah.

A Okay.

Q .316. .32 4/1000s more would be four times the legal limit of alcohol, right?

A BAC and cardiac level is .316, yes, sir.

Q Okay, all right. Do you have any reason to believe that's not correct?

A No, sir.

Q All right. Does the Sheriff's Office have any kind of policy on DUI cases, or cases where somebody registering a certain amount of blood alcohol level are they required to take them to the hospital?

A Yes, sir.

Q What is that?

A I don't recall.

Q Is it .3? Pretty close to this, if it isn't over right?

A It's -- it's high, yes, sir.

Q Okay.

A That is -- that would be --

Q Have you ever had a DUI of .316?
A I don't recall.
Q Okay, all right. And you're aware also that the tox screen was presumptively positive for amphetamines and marijuana; are you aware of that?
A I -- I didn't see THC in there.
Q Did you see amphetamines?
A I didn't -- it didn't catch my eye. If I may? Yes, sir.
Q Okay. Have you ever encountered someone that has been on amphetamines and marijuana in that high of an alcohol level before?
A I wouldn't be able to tell you.
Q Have you ever seen what it makes people do and the way they act?
A I wouldn't be able to tell you that. I can't answer that.
Q Okay. Are you aware that amphetamines are a stimulant of the central nervous system?
A Yes, sir.
Q And alcohol is a depressant?
A Yes, sir.
Q And marijuana is an alcohol depressant

and a hallucinogenic, right? Have you heard that?

A Yes, sir.

Q Do you know what the result of all those 3 together means?

A No, sir.

Q Okay. Does it make people appear to be bullet proof, or think they're bullet proof?

A I'm not gonna speculate.

Q All right. I'll withdraw that question. Did you collect Mr. Rivers' clothing, or anybody?

A Investigator Seronka collected --

Q Seronka?

A -- Mr. Rivers' clothing.

Q Have you seen pictures or are familiar with what was found?

A Am I familiar with what was located in the clothing, or --

Q Yeah.

A -- the clothing itself?

Q What was located in the clothing?

A Yes, sir.

Q You are?

A Yes, sir.

Q Have you seen that picture before?
A Yes, sir.
Q Okay, and what is that?
A That is a cutter.
Q A boxcutter?
A Boxcutter.
Q So it has --
A Like a boxcutter.
Q -- like a razorblade --
A Yes.
Q I has a razorblade that is extractable from that?
A Yes, sir.
Q Okay. And this was in Mr. Rivers' pocket?
A Yes, sir.
Q Okay.
MR. LEE: I'm gonna ask that this be introduced as Defense's Number 1.
BY MR. LEE:
Q Did you open it up, and see if there was a blade inside of it?
A I did not.
Q Okay. Any reason to think there was not?

A There's no reason to think that.
Q And that was in Anthony Rivers' pocket?
A Yes, sir.
Q Okay. Would you consider that to be a weapon? Could it cause damage to someone?
A Yes, sir.
Q Okay. Do you know how long it was between when Mr. Rivers was shot, and when the first law enforcement got there, approximately?
A Approximately, 11 minutes.
Q Okay. Do you know what happened in those 11 minutes between when he was shot and when law enforcement first got there?
A Ms. Robinson states that she was trying to administer first-aid.
Q All right. But you have no way of knowing what everybody was doing at that time?
A No, sir.
Q Okay. And I know what Ms. Robinson said, but would you agree that the testimony of witnesses is consistent, that Anthony Rivers was the one who went up to Stephan Polite and chest pumped him and pushed him against the wall?
A Yes.
Q Did anybody dispute that?

A No, sir.

MR. LEE: Judge, that's all the questions I have for Sergeant Byrd.

MS. MOLINA: Thank you, Judge.

**

CROSS-EXAMINATION

BY MS. MOLINA:

Q Investigator Byrd, you talked to multiple witnesses eventually that were on-scene?

A Yes, ma'am. Yes, ma'am.

Q And that night you went to the scene and collected the evidence found, yes

A Yes, ma'am.

Q And Officer Garcia arrived to the scene while first-aid was being administered, correct?

A He was the first arriving officer, yes, ma'am.

Q And the victim was still there?

A Yes, ma'am.

Q Okay. And he marked evidence -- or evidence was marked by initial responders that you later photographed?

A Yes, ma'am.

Q And that evidence included two plastic

bags covered in blood, a black towel, bloody, and a cartridge case bullet -- or shell casing?

A Yes, ma'am.

Q And a black glove that was found in the ditch?

A A nitrile glove, yes, ma'am.

Q When you talked to Banger, who is Natasha Robinson, she, as the defense indicated, got there when A.J. called her whack, right?

A Uh-huh.

Q And she ignored him?

A Yes, ma'am.

Q And then they continued to have a good time, right?

A Yes, ma'am.

Q And that when the victim walked in, he patted Akeem down, he called him names, and Akeem ignored him?

A Yes, ma'am.

Q Didn't fight him?

A Yes, ma'am.

Q Didn't shoot him?

A No, ma'am.

Q Okay. And then he said something to the Defendant, he called him a bitch, right?

A Yes, ma'am.

Q And everybody's trying to calm him down, and victim starts saying, "You know, kill me, kill me?"

A Yes, ma'am.

Q And Banger says at that point the Defendant left the shed, and Pumpkin said, "Go with him, I've got a bad feeling?"

A Yes, ma'am.

Q So Banger walks with him to the car, he gets a gun out, and she tells him, "Don't bring that gun in, just leave it in the car?"

A Yes, ma'am.

Q And Banger says that in response, the Defendant says, "Nah, he called me a bitch. I'm just gonna put my gun on my side so he can see it and leave me alone," right?

A Yes, ma'am.

Q And Banger, along with all the other witnesses, say that victim never carries a gun, and he doesn't like guns?

A Yes, ma'am.

Q And that if, you know, you threaten him, he's gonna call you on it?

A Yes, ma'am.

Q Okay. So Defendant goes back into the shed with this gun, and victim says something, Defendant pulls the gun on him and points it at him, according to Banger?

A Yes, ma'am.

Q And when he pointed the gun or presented this gun, victim became very angry?

A Yes, ma'am.

Q Because they're cousins, and his cousin just pulled a gun on him.

A Right, yes, ma'am.

Q Okay. And at that point he's not threatening him, he's challenging him, "Shoot me then," essentially?

A Yes, ma'am.

Q And then, you know, they're breaking them up, they're separating, and eventually Defendant walks out to go to his car, and is approached by victim, and he pulls the gun up, pistol whips victim twice in the head, yes?

A Yes, ma'am. So when he pulled the gun up, it was described as, "Arthur removed Anthony, the victim, from the shed, and he was trying to calm him down."

Q So he pulled the gun up on him two

times in the shed?

A One time.

Q One time in the shed?

A He got him out and was calming him down, and that's when it was described as, "Stephan -- Anthony went back towards the shed, and he was yelling at Stephan." At that moment from outside --

Q Uh-huh.

A -- Stephan used the gun --

Q Uh-huh.

A -- he had pointed it at him, and then Stephan -- so as they're -- they have Stephan in the shed, and they're trying to get Anthony calmed down, and then Stephan goes to leave.

Q Okay, and when Stephan goes to leave, he's approached by victim, and he pistol whips him two times in the head?

A She described it as twice in the head, yes, ma'am.

Q And at some point, assuming on the second pistol whip, the gun flies out of his hand?

A Yes, ma'am.

Q And at that point, he starts punching

the victim, pushing him into the ground, gets on top of him and is punching him?

A Yes, ma'am.

Q And by all witnesses accounts, the victim lost that fight?

A Oh, yes, ma'am.

Q And nobody said that victim even ever hit Defendant at any point?

A No, ma'am.

Q That the contact essentially was limited to a chest and maybe grabbing when the fight started?

A Attempted to grab, yes, ma'am.

Q Okay. And so after victim's on the ground after getting beaten by the Defendant, Defendant goes into his car to start driving away, yes?

A Yes.

Q And victim -- well, first he snatches his gun back, and then he goes in his car to drive away?

A Yes, ma'am.

Q And victim is running after him, and is banging on the car?

A Yes, ma'am.

Q And saying, "You pistol whipped me, kill me."

A Yes, ma'am.

Q Now, at some point did the victim's pants fall down?

A Ms. Brown states, "That at some point Anthony's pants fell down and he -- you can clearly see that he had no gun," said, "that he didn't even have any drawers on."

Q So he was not armed?

A They just said --

Q With a gun.

A -- not having a gun.

Q Okay. Did any witness ever say that he brandished this boxcutter?

A No, ma'am.

Q He just was saying, "Kill me, shoot me," banging on the car?

A Yes, ma'am.

Q Okay. And saying that he was drunk, acting crazy, maybe on something, yes?

A Yes, ma'am.

Q And then Natasha came back on June 3rd, because she said you'd just woken her up, she wanted to make sure she wasn't leaving anything

out, and tell you everything?

A Yes, ma'am.

Q So she says to you that inside the shed Defendant and victim were arguing, and the Defendant raised the gun and pointed at the victim the first time?

A Yes, ma'am.

Q And everybody tries to break it up and calm him down. Defendant then leaves and pointed the gun a second time stating, "You fuck with me, and I will put you in a wheelchair?"

A Yes, ma'am.

Q And, again, everybody's trying to break it up.

A She describes it as, "Everybody started to calm Anthony down, and he began yelling with Art there."

Q And then essentially the same events that she had told you the day before?

A Yes, ma'am.

Q And when she was talking to you there, she said, "He never made it in front of the window, right as he got to the window Defendant started to pull forward again," right?

A Yes, ma'am.

Q In the clip that we saw there, that the defense counsel played, he was running, and he never got even with the window. Right as he was about to the car started pulling away?

A Yes, ma'am.

Q And then you also talked to Pumpkin, who is Altea Brown?

A Yes, ma'am.

Q And she stated that the victim arrived, greeted everybody, and was patting pockets the same way that Banger said?

A Correct, yes, ma'am.

Q And that they were talking trash, essentially?

A Yes, ma'am.

Q She says, "Talking shit."

A Yes, ma'am.

Q "They began talking shit."

A Yes, ma'am.

Q And during that Defendant walked out to his car and got the gun?

A That -- yes, ma'am.

Q Another argument started, raised and pointed the gun, and states a different threat, but a threat, Defendant threatened victim --

A That the --

Q -- to smoke him.

A She says that the Defendant pointed the gun at the victim, and stated, "I will smoke you."

Q And at that point the victim was upset?

A She says he was aggravated, extremely aggravated.

Q And at some point his hands fell down, you could clearly see he had no gun.

A Yes, ma'am.

Q And then that Defendant exited the shed while the victim was ranting about Defendant pointing the gun at him?

A Yes, ma'am.

Q And a fight started, Defendant pistol-whipped him, and they fought on the ground?

A Yes, ma'am.

Q She states that when victim got to the trunk of the car, he was just banging on it, and continued to strike the rear until he heard a single shot?

A Yes, ma'am.

Q And Banger told you when he was on the car, he was banging on it?

A That he was banging on it, yes, ma'am.
Q And they both said that following the shot, Defendant left the scene?
A That he hit the gas and left.
Q Okay. Now, when the victim was insulting Alexis, did Alexis shoot him?
A No, ma'am.
Q When victim called Alexis a bitch, did Alexis shoot him
A No, ma'am.
Q When he insulted Arthur, did Arthur shoot him?
A No, ma'am.
Q And Arthur got a gun, but Alexis stopped him, and actually Arthur let her take the gun?
A Yes, ma'am.
Q And neither of them shot him?
A Yes, ma'am.
Q When you talked to Arthur, he first stated and seemingly kind of to himself, "You'd done beat his ass, all you had to do was go," --
A All you had to do --
Q -- according to Defendant about the victim?

A Yes, ma'am.

Q Okay. And he said, you know, Defendant went out to the car and got his gun, and pointed it at Anthony --

A Yes.

Q -- right?

A Yes, ma'am.

Q And that's why Anthony got crazy?

A Yes, ma'am.

Q Because of that right there?

A Yes, ma'am.

Q Okay. And then, essentially, he tells the same story about Defendant pistol-whipping the victim twice in the head and the fight, and the gun going flying, and Defendant leaving?

A Yes, ma'am.

Q And he wasn't sure if it was the window or the door opening, but he heard the single shot?

A Yes, ma'am.

Q And the person coming in was who? Who the Defendant called to pick up the victim?

A Yes, ma'am.

Q Okay. The Defendant came in with his attorney prior to your interview with Pumpkin

and Banger, right?

A Yes, ma'am.

Q And in that interview his lawyer -- he and his lawyer made statements regarding the incident?

A Yes, ma'am.

Q Okay. And the Defendant's, through his lawyer's statement, is that the victim was -- sorry, let me find it.

MS. MOLINA: The Court's indulgence.

BY MS. MOLINA:

Q They were at this party, and the victim spit at him and indicated intolerance for him, and Defendant considered that disrespectful?

A Yes, ma'am.

Q And he was locked into the shed playing cards.

A Yes, ma'am.

Q But, eventually, it was clarified that the homeowners told him to stay in there?

A Yes, ma'am.

Q And through your investigation did you determine if somebody could be locked in the shed?

A No.

Q They just --
A No exterior lock.
Q It locked from the inside?
A Yes, ma'am.
Q And they were, again, trying to separate the Defendant and victim, and calm victim down?
A Yes, ma'am.
Q After a gun had been pointed at him, okay. They talk about the ride being called, because nobody can control him. He mentions they had a personal fight, and says that Defendant pinned down the victim, and during that the gun fell out of his pocket?
A Yes, ma'am.
Q Or fell out of somewhere
A Yes, ma'am, it fell at some point.
Q During the struggle it fell out?
A Yes, ma'am.
Q Okay. And then when Defendant was getting in his car to leave, the victim slammed open his door forcefully and tried to get the gun; that's what Defendant's attorney said?
A Yes, ma'am.
Q And that's what happened, the gun went

off is what they said, right?

A Yes, ma'am.

Q He also says he wasn't trying to use the gun against this guy at all?

A Yes, ma'am.

Q And he actually said multiple times the gun just went off, "The damn gun went off?"

A Yes, ma'am.

Q At any point during that interview did the Defendant, or his lawyer, mention anything about a boxcutter?

A No, ma'am.

Q In any of your witness statements or witness interviews, did anybody mention anything about a boxcutter?

A No, ma'am.

Q Did the Defendant indicate in his interviews he believed the victim to be armed?

A No, ma'am.

Q He said that it happened in a struggle over his gun --

A Yes, ma'am.

Q -- and the gun went off?

A Yes, ma'am.

Q And he didn't say he shot the victim in

self-defense at any point, right?

A Right. Right.

Q Okay.

MS. MOLINA: The Court's indulgence.

BY MS. MOLINA:

Q And, again, the shell casing was found on-scene, correct?

A There was a shell casing found on-scene, yes, ma'am.

Q And he agreed to turn over the gun and the car to you?

A Yes, ma'am.

Q And they actually said that the guy was climbing in the door, the driver's side door, the victim was climbing into the car?

A Yes, ma'am.

Q And all of the witnesses indicated, essentially, that it happened so fast they weren't even sure if the door opened or the window?

A Yes, ma'am.

Q Okay. And through this investigation did you'all take DNA and gunshot residue kits from the vehicle?

A We did. I did.

Q Did you take gunshot residue from -- well, where did you take residue from in the vehicle?

A I used two GSR kits. One -- a GSR kit has a right hand, left hand. On one kit the right hand was used for the B pillar interior by the seatbelt, like the interior B pillar where the seatbelt is.

Q Where you would reach to put your seatbelt on?

A Where you would reach -- yes, ma'am. And the left hand was used for the driver's seat, like all over the seat, like the headrest and where your arm would be, like if you were sitting down in the chair.

The second GSR kit the right hand was used for the windowsill on the exterior, because they had indicated not sure about the window coming down. And the left hand was used for the driver door interior. So like the armrest on the driver door where the buttons are, the handle, all that, the interior.

MR. LEE: Your Honor, I hate to interrupt, my client says he really needs to use the

restroom. Can we take a quick restroom break? I apologize, or he can go and --

THE COURT: No, let's take a 5-minute recess.

MR. LEE: Sorry about that. All right, thank you.

THE COURT: You can step down or stay there.

WITNESS: Yes, sir.

THE COURT: Either one.

(Recess)

**

PROCEEDINGS CONTINUED

THE COURT: All right, it appears everyone's back in the courtroom.

Are you ready to resume questioning your witness?

MS. MOLINA: Yes, sir.

BY MS. MOLINA:

Q Investigator Byrd, you just were telling us where you swabbed for GSR. What were your results as to -- or what were the results for the GSR kits of the car?

A May I see the SLED report?

Q Yes.

A And may I see the SLED receipt?

Q Yes, sir.

MS. MOLINA: And we can make these Court's Exhibits 3 and 4.

(Court's Exhibits 3 - 4 admitted into evidence.)

BY WITNESS:

A Your Honor, the -- GSR kit -- the vehicle in here, so that would be like B pillar and the driver's seat. SLED had no part of analyzing gunshot primer residue. The GSR kit that was for the vehicle driver door, so the windowsill and the door showed particle characteristics of gunshot primer residue.

Q So positive for GSR on the door, negative for GSR on the seat and by the seatbelts?

A Yes, ma'am.

Q Okay. And in part of processing the car you took GSR, did you notice or find any blood in the car?

A No, ma'am. Not to my recollection.

Q I can hand you a picture.

MS. MOLINA: I've marked it, but we can make it State's -- what are we -- or Court

Exhibit 5.

COURT REPORTER: Yes.

BY MS. MOLINA:

Q And you also swabbed the car for DNA, right?

A I collected six DNA swabs.

Q Where were those DNA swabs taken from?

A One was the interior driver door, just the door. You know, one was the exterior driver door with a keypad above the handle.

One was the exterior driver door handle, so underneath the handle and the handle itself. Exterior driver's side B pillar, as if somebody was banging on that B pillar on the exterior. The left rear passenger door exterior, left rear, would be the driver's side rear passenger door. The exterior driver door window.

Q And I'm gonna hand you State's Exhibit -- or Court's Exhibit 6 now. Was the victim excluded from item number 8, and what is item number 8

A Item number 8 is swab of the driver door exterior handle, and Anthony Rivers, Jr. was excluded as a contributor to the DNA contained on item 8.

Q And for the other items swabbed inside the vehicle, there was insufficient or no DNA, either insufficient amounts to analyze, or the DNA recovered at all?

A Yeah. For the vehicle?

Q Yes, sir.

A No DNA recovered from the keypad area. There were no DNA recovered from the driver door exterior window. No DNA recovered from the driver door -- the driver's side B pillar. Quantity insufficient for further analysis on the driver door interior, and no DNA from left passenger door exterior.

Q Okay, but the Defendant was identified on item number 8, the exterior.

A Okay.

Q Presumptive.

A Potential marks.

Q Yes.

A Yes. Yes, ma'am.

A Yes, ma'am.

Q I am going to hand you the autopsy report, Court's Exhibit 6 and 7.

A 6, 7.

Q And in that report is it indicated that

the victim suffered a head wound.

A Yes, ma'am.

Q And that he, ultimately, died from a single gunshot wound?

A Cause of death was single gunshot wound to the chest.

Q And that he had in his blood test THC and alcohol?

A Yes, ma'am.

Q And the amphetamines from the hospital test were found in a urine screen?

A Yes, ma'am.

(Court's Exhibits 5 - 10 admitted into evidence.)

Q You talked to multiple witnesses, and some witnesses more than once. Did any of them indicate that the victim was in the vehicle?

A No, ma'am.

Q Did they all state that the Defendant went and got a gun, and that escalated the night?

A Yes, ma'am.

Q Did any of the witnesses say the Defendant was not able to leave? That he was prevented from leaving once he was in his car?

A No, ma'am.
Q He had the ability to leave?
A Yes, ma'am.
Q Did any of the witnesses indicate that the Defendant suffered any injury from the victim?
A No, ma'am.
Q When the Defendant came to talk to you, did he appear to have any injury?
A No, ma'am.
Q And they all said that the victim was unarmed, they didn't see him with a gun, that the Defendant pulled the gun --
A Yes, ma'am.
Q -- that the Defendant beat him --
A Yes, ma'am.
Q -- got in his car --
A Yes, ma'am.
Q -- shot him, and then left
A While pulling away shot him and then left.
Q Okay.
A Yes, ma'am.
Q And the witnesses that you talked to made it clear that he was banging on the car

when he was in back?

A Yes, ma'am.

Q Okay. I have nothing further for you.

MR. LEE: A couple follow-up, if you don't mind?

THE COURT: Sure.

**

REDIRECT EXAMINATION

BY MR. LEE:

Q The Solicitor said -- got you saying something that said Anthony Rivers never carries a gun, right?

A They said that, yes, ma'am -- yes, sir.

Q They also said he never acted like that that night. He never cussed at a female, and he never acted like he had that night, right

A Yes, sir.

Q Okay. Now, also you talked about these witnesses saying this and saying that, again, you know that there's a lot of convictions against Althea Brown or Pumpkin for crimes involved with dishonesty, forgery? Have you checked that or not?

A No, sir.

Q Okay, all right. Now, and the victims

that she's relying on too, Arthur Washington, Alexis Smalls who lives there, the first thing they said that night when they got interviewed was -- they told you they were inside the house and heard gunshots, and they were in there --

A Yes, sir.

Q -- with Pumpkin --

A Yes, sir.

Q -- Banger and Twin, who we talked about Natasha Robinson and Althea Brown. Their story that night, "We were -- everybody was inside when we heard the shot, we don't know who did it," right?

A Yeah.

Q And they told that to 911, they told it to Garcia, they told it to Chelsea Seronka.

A Yes.

Q They told everybody, "Hey, we were inside and heard a bang, we have no idea. We didn't see any cars coming, going, nothing," right?

A Alexis and Arthur, yes, sir.

Q Right, okay. And then Natasha Robinson -- "You're a hard girl to track down, aren't you?"

A Yes, sir.

Q And you had to do a lot of research to figure out who Banger was and who Pumpkin was, right?

A Yes.

Q So they weren't exactly coming forward like Stephan did to the police, you had to go find her in the middle of nowhere out in St. Helena, right? Natasha Robinson?

A I did.

Q Okay. Now, how much or how little -- when Mr. Moss -- first of all, did you know Mr. Moss was an attorney?

A Did I know that he is?

Q Yeah, do you know him?

A Do I know him?

Q Have you met with him before?

A No, sir.

Q You've never met with him?

A No, sir.

Q Do you know how old he is?

A No, sir.

Q Okay. Do you know he's in probably his 80s at least?

A Probably.

Q Okay. Do you know if what Moss was saying was correct?
A I don't.
Q Did you --
A At that moment I don't -- I didn't.
Q Do you know where he got that information from?
A Do I -- his client said --
Q The stuff Moss said.
A His client was sitting right beside him.
Q Okay, all right. Do you know whether Moss confused any of the things his client had told him?
A I don't know.
Q Okay. Do you know if he misstated anything?
A I don't.
Q Okay. And he was kind of holding stuff, wasn't he?
A Yes, sir.
Q Okay. And they actually had you'all come pick up Stephan's car at Moss' office, right?
A Yes, sir.

Q How many days after the shooting was that done; do you know? I think you talked to them on maybe June 1st, which is like 2 days after, so was it like 3 or 4 days between the shooting and the --

A It was 3 or 4 days.

Q Okay.

A Right.

Q All right. And as a matter of fact, there was no DNA found on the large portion of the things you tried to get, right?

A Yes, sir.

Q Okay. Does DNA disappear? I mean does it go away? Does it get wiped off? Does it get rained on? I mean is there a way for DNA not to be on somewhere and then go away?

A Yes, sir.

Q Okay. And just because you touch something doesn't mean there's automatic DNA that's traceable and reasonable and obtainable, right?

A Correct.

Q Okay, so the fact -- the absence of someone's DNA on something does not mean that they -- somebody didn't touch it, right?

A Correct.

Q Okay. So on a doorhandle, if somebody's DNA is not on there, you can't say whether or not they touched the handle or not, can you?

A Correct.

Q Okay. Now, if it was there, you could say, "Hey, somehow their DNA got on there," but it is not there, it doesn't prove anything, does it?

A It -- no, sir.

Q Okay. And one thing I forgot to ask you about, even after Anthony Rivers had been shot and Natasha Robinson is trying to help him, he is still fighting her, and I think she said he threw her four feet off of him; is that right?

A He kept saying, "Let me die --

Q Okay.

A -- let me die."

Q And when EMS got there, he actually was trying to fight the EMS personnel in the ambulance; are you aware of that?

A No, I was not aware of that.

Q Okay. And he's not mad at Natasha

Robinson, he's not acting like that because he's mad at Natasha Robinson or EMS, is he?

A No.

Q He's just acting, right?

A I don't know.

Q Okay. There also was GSR done for Arthur Washington under the house; was there not? Are you aware of that?

A It -- he would -- GSR would have been collected.

Q Okay. And it was that night, was it not?

A It would have been, yes, sir.

Q All right. And actually --

A I think it Seronka that collected that, yeah.

Q And they did fine a particle of gunshot residue on Arthur Washington, correct?

A If I may?

Q Sure. And I have this on page two right before.

A Particle characteristics of gunshot primer were located on Arthur Washington, Jr.

Q Okay. And he's the one who is best friends with Anthony Rivers, who still couldn't

get him to calm down, who had to go get a shotgun to try to get him to calm down, right?

A Correct.

Q Somehow the GSR ought to be pretty consistent with that; would it not?

A To be in control of the firearm?

Q Yeah.

A Yes, sir.

Q Yeah. Because it doesn't have to be from firing something, it could be coming in contact with the firearm, correct, GSR?

A I'm not sure. I'm not sure about that.

Q Okay. So when you fire a firearm it has GSR on it, and then you touch it, and it gets on your hand?

A I would --

Q Okay.

A Yes, sir, but I'm --

Q I get it. As lead investigator, tell me what evidence you have that does not indicate, or that is contradictory to Stephan Polite being in fear of Anthony Rivers on this night.

What evidence suggests he was not in fear of Anthony Rivers? Based on everything that

you've heard and that you recall about Anthony Rivers, what evidence do you have that he was not in fear?

MS. MOLINA: I would object to that question. It's broad, it's almost a legal argument that we will be arguing probably soon, and I don't know that Investigator Byrd is the one to make that determination.

MR. LEE: I'm not asking that. I'm asking, you know, what is evidence in this case, as lead investigator, that's indicative of fear --

THE COURT: Well, isn't that a subjective thing though, that he was afraid?

MR. LEE: All right.

THE COURT: Okay, I'll sustain the objection.

MR. LEE: Okay.

BY MR. LEE:

Q So from the witnesses you talked to, some of whom lied initially, said they were inside, do we know whether -- who opened that door in that car?

A The witnesses -- based on the witnesses I talked to, none of the witnesses have stated that the victim opened the car, none of them.

Q But there's witnesses -- how far away were those witnesses from the car when the shot went off?

A Each one would be a variable. I would estimate maybe -- I mean is it okay to estimate?

Q Yeah.

A 20 feet to 50 feet.

Q So from really the -- right by the shed all the way down to where the 90 degrees is, right?

A I'm not sure how far that is.

Q Okay, all right. And it's pitch black dark -- it is dark out there, right?

A Yes.

Q No lights?

A Yes, sir.

Q Okay. And each one of these victims -- I mean these witnesses are siding with Anthony Robinson -- I mean Anthony Rivers, right?

A I don't think there's a side.

Q You don't?

A They're just telling me what they saw.

Q You don't think their loyalty lives with Anthony Rivers?

A I don't -- I'm not -- I don't know if

it was or wasn't.

Q And part of what the Solicitor relied on before and asked you about what Arthur Washington said about what went on going down the road, that's the same Arthur Washington who told at least two, or three, or four law enforcement people that he was inside when it happened. All he heard was a shot, he doesn't know anything about it, right?

A I know he told one law enforcement, I'm not sure how many.

Q Well, did you hear the 911 call?

A I have. I've listened to the 911, but that was back in 2021.

Q Okay. Well, do you want to look at your report and see if there's anything? Did he tell anybody anything other than he was just inside and just heard a shot that night?

A Arthur --

Q Until he goes later on after --

A Until he talked to me --

Q Yeah.

A -- and --

Q Okay.

A -- out there?

Q Yeah.

A I know that Arthur did say that he just came outside, because he heard a gunshot --

Q Okay.

A -- he came outside and he -- Mr. Rivers was laying there.

Q And nothing about -- he didn't see anything else?

A And he didn't know anything and didn't see anything.

Q Okay. And when this thing about the victim's pants falling down, eventually, there was change, there was I think a $20 bill, there was a lighter, there was cigarettes and a boxcutter in his pants, right?

A And a paper towel.

Q And a paper towel?

A Yes, sir.

Q All right, but none of those -- none of the -- none of the witnesses said, "Well, he couldn't have had anything because his pants fell down," they didn't say anything about that other stuff in his pocket, did they?

A No, sir.

Q Okay.

MR. LEE: That's all I have for Sergeant Byrd, Your Honor.

MS. MOLINA: Briefly, please?

THE COURT: Briefly.

**

RECROSS-EXAMINATION

BY MS. MOLINA:

Q The Defendant was present with his lawyer for that interview, right?

A His former lawyer.

Q His former lawyer, sorry, he was present?

A Yes, ma'am.

Q And he participated in the interview?

A Yes, ma'am.

Q And Mr. Moss actually asked him questions in the interview -- asked the Defendant questions?

A Yes, ma'am.

Q And he clarified some things that Jim Moss would misstate?

A Yes, ma'am.

Q And it was the Defendant who a couple times indicated he didn't want to answer certain questions?

A Yes, ma'am.

Q I'm gonna hand you a couple pictures that we can mark. The first one is of the scene, and you said that there were no lights. Does that refresh you about whether there was a light out there?

A There's a light up closer to the house.

Q A dim light?

A It's -- it is.

Q But the witnesses also all stated that another car was coming in?

A Yes.

Q With lights on?

A Yes, ma'am.

Q Presumably. And then I'm also gonna hand you pictures of the victim's shirt, and the bags, and those are both covered in blood, right?

A Yes, ma'am.

Q And, again, no blood was found inside the vehicle?

A No, ma'am.

Q Okay, and the shell casing was found outside of the car, not inside the car?

A The shell casing was located on the

ground, yes, ma'am, at the scene.

Q And the people that are involved in this, the witnesses, the victim and the Defendant are all either very close friends or family, correct?

A Yes, ma'am.

Q And all of them have said that this didn't have to happen, and it, essentially, is a tragedy?

A Yes, ma'am.

Q And they didn't want to be involved?

A Yes, ma'am.

Q But were put involved by the action of the Defendant?

A Yes, ma'am.

MS. MOLINA: I have no further questions.

THE COURT: Thank you, you may step down.

WITNESS: thank you, sir.

MR. LEE: Your Honor, that would be the extent of the witnesses we intend to call. We were able to get a lot of stuff in through hearsay, and I think that that was sufficient to present the evidence we want to present.

THE COURT: okay. Anything in reply from the State?

MS. MOLINA: No, sir.

THE COURT: A brief argument?

MR. LEE: Should I go first?

THE COURT: It's your motion.

MR. LEE: They've got a burden to prove, maybe it switches around like it does for --

MS. MOLINA: For a motion?

MR. LEE: I'm gonna let her go first.

THE COURT: It doesn't matter to me.

MS. MOLINA: It's your motion, you have the burden to prove the elements.

MR. LEE: Judge, we kind of went through the framework for doing this. And there was a lot of testimony that, quite frankly, isn't really relevant to this. And, you know, some of the got you testimony about, well, he said he went inside the car. There was a suggestion he was in the car. And it really doesn't matter under the stand your ground.

I would submit to you that, and I have the State v. Glenn, which talks about the four elements of self-defense, which I'm glad to pass up, if you need it, State v. Glenn, G-L-E-N-N. And Glenn says there are four elements a Defendant must establish to justify the use of

deadly force under the common law of self-defense. You need one?

MS. MOLINA: I don't have that case.

MR. LEE: First, the Defendant must be without fault in bringing on the difficulty. I think the testimony is uncontroverted in this case, at least for this hearing, that Anthony Rivers came in there with his hair on fire, acting like nobody had ever seen him act before, under the influence of amphetamines, marijuana and alcohol, in a tremendous amount, nearly four times the inference level for driving under the influence, or being under the influence.

That's a very high number. That's the kind of number when you go to the hospital and you may die. And the reason people have to drink so much is because they take amphetamines or some upper, and they don't realize how much they've had to drink and what the effect of it is. The only testimony that I think I've heard came from about that initial reaction was, Rivers was patting down Akeem Chaplin, and he told him to stop, he was saying, "What's wrong with you?"

And he chested him, he pushed Stephan Polite into the wall. That is the initial

aggressor right there, that is what started it. And that Stephan Polite who everybody says was joking around, just wanted to play some cards, was happy, he didn't have his you know what on his shoulders, he was there to play cards and have a good time.

He did not bring about this difficulty. Clearly, Anthony Rivers did, and then he kept -- what he tried to do is he kept trying to get him to stop, and he used progressive methods in trying to do that, all of which were reasonable. Unfortunately, it never worked, because this guy would not stop coming after him.

So, first, he didn't bring about the difficulty. I think that by a preponderance of the evidence we've established that Anthony Rivers not step on Polite brought about the difficulty. So the second prong, under self-defense, "The Defendant must have actually believed he was in eminent danger of losing his life, or sustaining seriously bodily injury, or he actually was in such eminent danger." We satisfy both of those, even though we only need to satisfy one.

How could he not believe he wasn't in

eminent danger. This guy wouldn't stop. He's chesting people up. He has a death wish, it appears. He is trying to get after him. They are having to restrain him, multiple people, to try to keep this guy away from Stephan.

We know he had at least a razor knife in his pocket, but we also know -- he'd be silly not to be scared. And the reason, why would he be scared? Arthur Washington, the victim's best friend in the whole world, was scared enough of him, even though he's never acted like that before, scared enough of him to go into the house and retrieve a shotgun. That wasn't for Stephan Polite, or Banger, Pumpkin, that was for Anthony Rivers, his dearest friend. Arthur Washington had to go retrieve a shotgun, and we know he did, because he got GSR on his hand.

He had to get a shotgun, because he was that scared and that worried about serious injury. He wasn't even the target of this guy's angst and his threat, Stephan was. Arthur was his good buddy trying to talk to him down, and he's still scared.

So, clearly, he was scared, he had to have been. So he actually believe he was, which is

2A, or 2B, he actually was in such eminent danger, he was in eminent danger. This guy had a boxcutter, he had a death wish, he was hopped up on all kinds of substances, one of which puts you up, one of them takes you down.

That type of reading for alcohol, plus amphetamines, plus marijuana, did exactly what people say it does, it made him aggressive, it made him angry, it made him think that he was 10 feet tall and bullet proof, it made him erratic, all kinds -- every word you can think of, this guy was not right and he was dangerous without a doubt. Getting to the third element, third, "If his defense is based on his belief of eminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief." Arthur Washington entertained the same belief, even to the extent of going to get a gun against his best friend, to try to protect him and protect other people that were there. Clearly, he meets the subjective standard, he was in fear, he was in actual danger.

A reasonable person with the objective standard would have felt the same way. And 3B is, "If the Defendant was in eminent danger,"

which he was, "the circumstance was such that would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow, in order to save himself from serious bodily harm or losing his own life. Clearly, that's the objective standard, the reasonable person, he clearly satisfies that as well.

Four, "The Defendant had no other probable means of avoiding the danger of losing his own life, or sustaining bodily injury, and to act as he did in this particular instance." That's called the duty to retreat. There was nothing else Stephan Polite could have done that night to try to get out of there. He gradually used force step-by-step-by-step, first, by telling him to leave him alone, told him to leave other people alone. Then by saying, "Hey, maybe if he just knows I have a gun on me, maybe that'll back off," which most people normally would.

Then he had pointed the gun at him, but still doesn't work. Then he's making a beeline for his car, and this guy cuts loose from Arthur who's holding him, and goes to football tackle him, attacking.

As he did, he hit him and they got in the

fight. Robinson's down -- I mean Rivers is down, still trying to leave in his car. He has no gotten into the protection of his car, which is great for getting away, and all of these Monday morning quarterbacks and what ifs, what ifs, "Oh, if he would have just sped down the road." Yeah, that's fine, but he couldn't speed down the road.

He was blocked in, he had to slow down, and that was the first point in the whole time that Stephan was not able to have eyes on Anthony Rivers. He'd always been able to watch him, to feel comfortable to be able to defend himself, but as he's going down the road, getting ready to turn, Rivers, who -- we know there's a shotgun in the shed, we know that he has a boxcutter. He knows that there's a shotgun in the shed.

He doesn't know what this guy is gonna do. He goes down there, yeah, it would be great to speed away, except that there's no way to get out, it's a 1-lane road, there's deep ditches on both sides. Nonetheless, he tries to -- he's been trying to leaving, even though he really didn't need to, he's been trying to leave.

They've made him stay, "Don't go out there." He tries to leave one time, he gets tackled. He tries to leave again and who knows what Anthony Rivers picked up, got, got handed, whatever the case may be, who knows?

Well, all Stephan knows, he's finally getting out of there. It didn't turn out the way he wanted to, and this guy is right here, right where Banger demonstrated on the video. He is right there. Over his shoulder, in his blind spot, beating on the door, beating on the window, and he has -- yeah, he has his gun, it's right there. It's certainly probable and very possible he opened the door, trying to get in, and that's when he got shot. That's what makes the most sense. I believe that's what we have proven by a preponderance of the evidence. I think if we think otherwise would cause -- wouldn't make sense when weighing the credibility of the witnesses that are out there.

So I think that we have established by a preponderance all four elements of self-defense. He didn't bring about the difficulty, he was in reasonable fair, the fear was reasonable, reasonable people would have it, and that he had

no choice to act as he did, as he tried to retreat. I think the question is at that point, but if it doesn't, that's where the stand your ground comes in.

And, essentially, what stand your ground says is anybody trying to -- if you're in your car, or your house, or your office, and anybody has come in there, or attempting to come in there, you have an absolute right to meet force-with-force, including deadly force, if that's what is needed.

He was in his car, he had the protection of his car, the protection of the law in his car, and that's when you have to look at the crucial time you look at is clearly the shot came from out of the car into the outside. A car can be a great thing, if you can just mash the gas, as Natasha said, and get out of there. But a car can also be almost like a coffin, and it restricts your ability to move, and your freedom of movement.

And if you have somebody right here, and you're in your car, it's not like you can go run away and do something, you are stuck in your car, and he's right there. He'd been at this

for probably three hours, it's getting worse, he's threatened people, he calls people to go get guns, and he's right there. For the first time Stephan does not have Rivers in his sights, and that's a scary situation to be in.

The fear was reasonable, it's presumed to be reasonable, because of where Stephan was and the circumstances surrounding it. And so I think, again, it couldn't be clearer on stand your ground.

Now, the last one, the duty to retreat, he's in his car, he has no duty to retreat, but he's trying to, and we know he's trying to, even though he doesn't have to, because he's been trying to for the last couple hours. And every time he tries to Rivers prevents it, or somebody prevents it, say, "Stay in the shed," or Rivers is, you know, climbing up the walls and tackling him from across the parking lot.

So if you have to get to the stand your ground, I think that clearly this is what type of case these are designed for. It was a -- he was in fear, no question about that. It was reasonable. The fact he was in his car, somebody's trying to get in, that is a

carjacking, assault and battery, high and aggravated nature, whatever the case may be, is a violent crime, is presumed to be violent, it's presumed that someone is under reasonable fear, if they're in that situation, which he was. And, again, there is no duty to retreat.

So, essentially, you go up to was he -- did he bring about the difficulty? That's really all we're going back to. And I think it's clear from the testimony, it's clear from the top screen, it's clear from the way everybody was acting, it's clear from the victim's best friend having to get a gun, that clearly Anthony Rivers is the one who initiated this, he's the one that amped it up, and to say that it is somehow Stephan's fault, because he had the nerve to point a gun at somebody, and that's what -- and if you make a threat against Anthony Rivers, he makes you go through with it?

That's not rational, that doesn't make sense. That's not what reasonable people do, and that's not what they think. Reasonable people and rational people are also scared of being shot. He was not, he wanted people to kill him. He was completely irrational, acting

out, acting out, and who knows where his behavior was gonna lead to. And had it not ended this way, it certainly could have ended the other way, which is he's the victim, Rivers the Defendant.

So for those reasons, Your Honor, again, sure there's contradicting testimony, but I do think the law is clear that you need to make a decision about who to believe, make a credibility and veracity decision, and I think that under the circumstances that, at least by a preponderance, that that is in the Defendant's favor, and it's appropriate to grant him immunity under the castle doctrine.

THE COURT: Thank you, Mr. Lee.

MR. LEE: Thank you, Your Honor.

THE COURT: Ms. Molina?

MS. MOLINA: Thank you, Your Honor. And I'm just gonna hand those referenced papers up to Your Honor and up to the defense. To begin with, the self-defense and immunity are grounded in necessity.

The law permits the taking of another life when it is a necessity. And the -- it is the burden by the preponderance to prove entitled to

immunity, and we do that through the self-defense analysis. And I don't believe that the Defendant had proved he's entitled to immunity. For the first prong, the Defendant must be without fault in bringing on the difficulty. The defense argued that the victim was the initial aggressor, and I think it stands to reason that if there's a situation in which self-defense is at issue, the victim will have some fault.

The focus is on the Defendant, because of this grounding in necessity, so it's the Defendant who must be without fault. In State v. Slater, 373SC66, on page 3, "Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars the right to self-defense."

On the next page it talks about that mere unlawful possession does not automatically bar, but it can also be. In this case, the Defendant brought on the difficulty when he went to his car and retrieved a gun, with the intention and then the action of presenting it to the victim. He was not entitled to point and present a

firearm, because somebody is calling you names, and maybe chesting up and acting a little bit crazy, that does not excuse fault, or excuse the violation of law of pointing and presenting that firearm.

The next case State v. Douglas, again, it's difficult to find self-defense cases where the Defendant suffers no injuries, but in this case it is two drinking buddies that were drinking all day, a physical fight wherein the victim beats the Defendant pretty badly, and, ultimately, the Defendant in the Defendant's house, and, ultimately, the Defendant shoots him, but when assessing being without fault in the difficulty, I believe the State tried to point to the Defendant being drunk, and, therefore, bringing on the difficulty.

The Court, in a footnote, stated, "Lack of judgment reasonably affording the opportunity for conflict does not amount to bringing on the difficulty." Lack of judgment is not misconduct, and that's not what we have in this case. The victim being drunk afforded the opportunity for a conflict?

The Defendant's actions of bringing a gun

into a place where there were other people, and for the purpose of pointing and presenting that firearm makes him with fault in bringing on the difficulty, and the proximate cause of the difficulty.

Witnesses stated that having the gun pointed at him is what set the victim off. And although he was saying, "Kill me, shoot me, make good on your threat," and the defense pointed out that no reasonable person would say that, I don't -- I think it's reasonably fair to say no reasonable person thinks that their family member is gonna shoot them, or a reasonable person thinks that a family member is gonna pull a gun on them, because they called them a name.

The second prong is the reasonable belief prong, and the statute does provide a reasonable belief, if somebody is in the process. The witnesses stated that the victim was not in the car, did not open the door. The forensic evidence we have supports that, the DNA, there's no blood in the car. And State v. Duncan talks about being in the process. In that case, the victim had been kicked out of the home, and he was opening the screen door back to get into the

home, and after opening that door he was walking towards the Defendant. That's not what we have in this case.

All of the witnesses describe seeing his hand pounding on the car, and while he's pounding, they hear a shot and the door opens. It's not reasonable to say that he was in the process. It doesn't make sense in this case. The Defendant cannot hide in his car and be entitled to kill somebody who's banging on his car. It's no the legislative intent, that would allow the killing of, in many instances, road rage, somebody banging on your car, you're in your car, now you can shoot them, somebody's banging on your door, now you can shoot them, it didn't happen.

And if he was actually in -- well, he was not in the process, and then so we default to the reasonable fear. There's no indication that the Defendant actually believed he was in fear. He knew the victim wasn't armed, it was his cousin, he'd already beaten him up by all accounts, and he was leaving. He might have been annoyed, he might have been angry, he might have been insulted, but he was not in fear. He

didn't want to turn his back on him, but he did when he walked by him to get into his car before he pistol-whipped him.

And if the Defendant had the right to act upon appearances State v. Fuller talks about a situation in which the Defendant had the right to act on appearances, and that was after the victims had used racial slurs, that they had threatened him, they weren't deterred by a warning shot, they wrecked into his car and started approaching them with something shiny in his hand.

That's a right to act on appearance. And in this case we don't have that, all we have is an unarmed victim related to the Defendant, who is drunk and upset and running after the car saying, "You pistol-whipped me." Additionally, we move to the reasonable person standard. And in this case, we have people who were there in the situation dealing with the same victim, who did not shoot him, and I believe the testimony was that Arthur retrieved the gun because he was upset, not because he was in fear, he was mad, and he didn't use that gun.

And then the others were saying, "You

didn't have to get that gun, you should have just left." Nobody was afraid of him. They were trying to deal with him, but they weren't afraid of him.

The fourth prong, duty to retreat, although it is a stand your ground hearing and he was in his car, again, the immunity and self-defense is grounded in necessity. He had the ability to leave, and he, in fact, did leave. And there was -- the video that the defense played was of the witness saying, "He started to move when he got around the car, and he was pounding, and then he was shot, and then he fled the scene." He had the ability to retreat, he did retreat when he fled, and it's not reasonable to use deadly force on somebody pounding on your car.

If he did have the right to act in self-defense, he had already met force-with-force when he beat him, and when he pistol-whipped him. Too far is when he shot him for pounding on his car. And the defense pointed out the gotcha for statements that may be inaccurate by the Defendant.

The Defendant was with somebody that he hired. He adopted those statements in that

interview. He -- and those aren't the only statements that we have. The Defendant didn't testify today, so it can't be argued that in self-defense the -- after the victim opened the door he shot, that wasn't his statement, that wasn't evidence presented today.

Nowhere in the evidence presented was it Defendant shot him after victim opened the door. Defense's evidence of self-defense, based on the statements are that they got in the car -- the victim got in the car struggling over Defendant's gun and it went off. That would make this an accident, or a perfect self-defense. There was no -- by that statement, and the only statement we have from the Defendant, there was no intentional act in defending himself, the gun went off. It's unreasonable now to argue that it could or might be possible that when the Defendant -- the victim opened the door he shot, nobody testified to that.

The witness statements and the forensic evidence and the Defendant's statement all point to this not being self-defense, and the Defendant not being entitled immunity. He was the proximate cause of the difficulty when he

pulled the gun. He at no point said he was afraid, or indicated any kind of fear. No one else there was afraid, or would have used that force, nobody else did, and he not -- had the ability to retreat.

And I think that certainly bears on his fear, because like I said it's based on necessity. And the taking of another life should be the last option, not the third option after you pistol-whipped somebody and beat somebody, and you're in your car leaving.

For those reasons the State asks the Court deny Defense's motion for immunity.

THE COURT: Okay.

MR. LEE: your Honor, very briefly, I'd like to hand up State v. Bryant, Your Honor, B-R-Y-A-N-T. And sorry to jump up again, but, Judge, the thing I think she's missing is, yeah, it's important what happened leading up to this, but what the statement for Bryant is that, okay, maybe he didn't have a right to self-defense, but the right to self-defense can be restored to someone, if they by words or actions withdraw from the conflict, they're right to self-defense is restored, and that's what exactly happened in

this case.

Regardless about what they want to say, "You know, he shouldn't have got the gun, he shouldn't have pistol-whipped him," whatever, when Stephan started driving down that road after getting in a fight with him, if he ever -- if he lost the right to self-defense, it was restored, because he was leaving. And when he's leaving and he's in his car that's when castle doctrine kicks in.

So it really doesn't even matter. It helps him because of the way the guy was acting previous, he left. He withdrew from whatever combat they were having, he got in his car, he cranked it up, he left, he withdrew from the conflict, and at that point his right to self-defense is restored, his right to be protected under the castle doctrine is restored, his right to self-defense is there.

So the real time to look at is not three hours earlier, or who he said she said earlier on about shouldn't have pistol-whipped, whatever, he's been dealing with this cat all night. Every time he tries to do something, he comes after him. He tries to get away. He

withdraws from the conflict.

And you want to talk about could have, would have and wished they had, he didn't have to be chased down that road by Anthony Rivers, he's gone, it's over, he's leaving, but not according to Anthony Rivers. His right to self-defense, if he even lost it, is restored as soon as he leaves in his car.

And Anthony Rivers coming up to his car, that's the crucial time to look at it. Did Stephan come -- was he the initial aggressor as to the beating on the car and coming up right beside him? No. Absolutely not. Anthony Rivers was, he's the one that chased him down and was beating on his car. He had nothing to do with that, because he had withdrawn from the initial conflict. Was he reasonably in fear? Absolutely. He'd seen what's going on. He knows there's at least one gun left behind. He knows how this guy's been acting. Was that a reasonable fear? Absolutely.

Would a reasonable person be in fear? Absolutely. This guy was acting like nobody had ever seen anybody act before, and he was retreating, he was retreating, which he doesn't

have to prove on stand your ground.

So all the other stuff is nice about what happened leading up to it, but I would suggest to you that the proper way to do this is take a snapshot of when this shot was fired. If he had lost it, his right to self-defense had been restored, and he meets all four of those elements of self-defense. He certainly without doubt was not the initial aggressor as to the beating on the car. His car isn't beating on, you know, he's not doing anything, he's driving away.

The guy's trying to get into his car, whether he opened the door, whether he's trying to get in, whether he did, it doesn't matter. If he's attempting to get into the car, which is a carjacking, there is a presumption under this that he's in reasonable fear.

And then since he was in this car, there's no duty to retreat. And so that's the point you have to look at in applying this, stand your ground. It was over, whatever it was, it was over. Maybe he got the best of the guy, maybe he didn't.

Maybe the other guy had more bumps and

bruises on him and had a gun pointed at him, maybe so, but he withdrew from whatever was going on, no matter whose fault it was, and it starts the clock over. And when it starts the clock over, it meets every single one of those elements of self-defense.

THE COURT: Anything in response briefly to that?

MS. MOLINA: Briefly.

THE COURT: The last argument.

MS. MOLINA: Yes, sir, and I would first point to State v. Slater, because, again, the one I had first cited talking about the unlawful possession and bringing on the difficulty, the facts in that case are that the defendant approached a group with a loaded gun, that he had no involvement in, and was a robbery, and once the people involved saw the gun, they pointed the gun towards him, they ran away or was firing back, and somebody was killed.

I think that that is -- in that case the Court found that he was -- he did not meet self-defense because he was with fault in bringing on the difficulty, and it talks about the gun being the approximate cause of the killing.

Additionally, there has to be a good faith withdrawal and announce to the adversary in some way. We know that he had already been out to his car once, and although he was leaving, he was rearming himself.

There's testimony that the gun had separated, he was in his car now with this loaded gun, and if there was a conflict, it was maybe a fist fight, because he was pounding a car, malicious injury to property. It wasn't a situation requiring the Defendant and entitling to use deadly force.

The evidence doesn't support that, and the statements made by the Defendant don't support self-defense either, they support accident. And if it was an accident, it was an unintentional act, and he's not entitled to immunity for that either.

THE COURT: All right, thank you, Solicitor.

MS. MOLINA: Yes, sir.

THE COURT: In reverse order, I suppose, as to the presumption, under 16-11-440, I find that there's actually no evidence that the victim was attempting to remove the Defendant from the

vehicle, or had forcibly tried to occupy the vehicle; and, therefore, the presumptions under 16-11-440 I find, as to that presumption, that the Defendant's position failed.

I further find that the Defendant has failed to find by a preponderance of the evidence that the allegations relating to self-defense. I find he was at fault, and leaving the confrontation, if that's what you call it, by the shed, go into his car, get a gun, and over the period of the next little while threatening the victim with the gun, pointing and presenting the firearm and assaulting him just before this ended the victim.

So I further find that the victim did not have a same expectation that a reasonable prudent man would have had to avoid this use of deadly force. There's no evidence that the victim in this case ever had a gun. The most that was going on that caused the firing of the weapon from inside the vehicle, or the Defendant banging on his car in a manner that at least one of the witnesses believed was much like a boxer would do, challenging the driver, since they had just -- which would make sense, that they had

just had an altercation in which, as I said a minute ago, the victim was assaulted by the Defendant.

For those reasons I find that the Defendant's motion is denied. What do we need to do to prepare ourselves for tomorrow? Anything?

MR. LEE: We can be here early, and we can figure that out before the jury comes in.

THE COURT: Yeah, you'all be ready for like opening statements as soon as we --

MR. LEE: Yes, sir.

THE COURT: -- get moving. Okay.

MR. LEE: 9:30 you said?

THE COURT: 9:30.

MR. LEE: Okay.

(At 3:11 p.m. the proceedings were continued until the following day without interruption.)

**

END OF VOLUME I

CERTIFICATE OF REPORTER

***

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 15th Day of April, 2024.

I do further certify that I am not of relation, counsel, or interest to any party hereto.

This, the 1st day of September, 2024.



Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

State of South Carolina,
Plaintiff,
vs.
Stephan Q. Polite,
Defendant.

IN THE GENERAL SESSIONS COURT
2021-GS-07-00981, -982

TRANSCRIPT OF JURY TRIAL
VOLUME II
PAGES 180 - 446

April 16, 2024
Beaufort, South Carolina

B E F O R E:

The Honorable **BROOKS GOLDSMITH**, Judge Presiding

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TUESDAY, APRIL 16, 2024

BEAUFORT, SOUTH CAROLINA

***

(The following proceedings were held in open court. All parties were present.)

**

BAILIFF: All rise, this Court is in session, the H36onorable Judge Brooks Goldsmith presiding.

THE COURT: Good morning, ladies and gentlemen.

MS. MOLINA: Good morning.

MR. LEE: Good morning.

THE COURT: Please be seated.

MS. MOLINA: Your Honor, I think we have one matter of law before the jury comes in.

THE COURT: All the jurors are present.

MS. MOLINA: A record of the witnesses. I think the only one really in dispute is Althea Brown. She has several convictions from 2002, which include a financial transaction card fraud, one, two, three, four of those from 2002, and then forgeries from 2001, but most recently

within the 10 years is a 2019 conviction for breach of trust with fraudulent intent. Obviously, that's within the 10 years.

I think there's an argument that it's a crime of dishonesty. I think he's permitted to cross on that. Whether she has it or not, I don't think he can get into details, but it's my understanding he wants to talk about her other convictions outside of the 10 years. The State would object to those, one, because they're outside of the 10 years, and the probative value that those would have don't substantially outweigh any prejudicial effect.

He can effectively cross her and impeach her credibility with this 2019 conviction, but getting into stuff outside, not just 10 years ago, but 20 years ago serves really only to embarrass her. It's not relevant to impeach her. It's not more -- it doesn't add to more probative value of her truthfulness or untruthfulness. I think just the 2019 conviction is admissible.

THE COURT: Mr. Lee?

MR. LEE: Judge, it appears from the rap sheet that they sent me that there's a forgery

from 2008 and two from 2009.

MS. MOLINA: Okay, there are some other forgeries from 2009, but she got 1 year of probation, so that would be 2010, generous 2011, still outside of the ten years. For the same reason, we ask he only be allowed the 2019.

THE COURT: Mr. Lee?

MR. LEE: Judge, first of all, I was provided with this rap sheet, despite a specific Brady about several weeks ago. I was provided with it on Friday, or maybe Friday a week ago, but anyway this is a pattern, this isn't one random I was a young kid and I wrote a bad check, this is a pattern for Ms. Brown.

It significantly is -- would take probably two days to talk about, but this goes directly to her credibility, to her trustworthiness, or to her ability or inability to tell the truth, and it is a pattern. It's not a one-off, it is a consistent pattern of multiple charges all involving dishonesty, fraud, etcetera, and it is crucial for the jury to understand, and be able to analyze the credibility of these witnesses, eyewitnesses, as you heard yesterday, she will testify to the very crucial issues in this case.

And I certainly think that it's relevant.

I certainly think that probative value is enough that within the interest of justice those convictions should be introduced, and that would be our argument for that. I mean, she's in there talking about how she's really good buddies with a guy named Squires, who's a drug taskforce guy with the County.

So, you know, she has a lot of experience with law enforcement, she has a lot of experience with lying and cheating and stealing. And, you know, she goes into their office three or four days after this happens and puts forth this story that they're going to use as corroboration of other witnesses' stories.

So I think it's very important to -- and she actually says some things that I think other people don't really say, particularly, a statement she allegedly implies to my client that no one else has said anything about.

So I think that her credibility is at issue. You can certainly tell the jury, use it for what it's worth, consider what the charges are or when they were, and you can certainly do a limiting instruction for the jury to put that

all in the proper context to look at the entire picture.

So for those reasons I certainly think that each and every one of those should be admissible as impeachment against Ms. Brown.

THE COURT: I can't recall, but you correct me if I'm wrong, I can't recall a case referencing the pattern of dishonesty, as it being something the Court should consider; am I right or wrong?

MS. MOLINA: I'm not aware of one, and it sounds almost like a 404/406 argument. And the difference is, she's not here accused or alleging to have stolen someone's card, or they stole somebody's card to show conformity, its propensity evidence, to show that she took a card and forged to have forgery.

I think for impeachment purposes the 2019 is sufficient. I don't think it fits in under 404, where 404(A)(3) says, "Evidence of a character of a witness is provided by 607, 608 and 609," so not under that. And then as to opinion or reputation, a rap sheet is not an opinion or a reputation, and specific incidents of conduct.

I just think it's covered by Rule 609, specifically, impeachment by evidence of a conviction of a crime, and 2019 fits squarely in that, the others don't.

MR. LEE: Your Honor, I think the prosecutor's complaining the rights that a witness has, which aren't a whole lot versus the rights of the Defendant. When you get into propensity evidence, that's protecting the constitutional rights of the Defendant who's on trial, who's charged with something. She has no constitutional rights that you need to protect, to sit here and argue that, "Well, that shows propensity of my witness," you're darn right it does, and I want to attack that witness for her ability to tell the truth. And it is crucial to Mr. Polite to get into pattern, otherwise, it's essentially a legal fiction, to say, "Oh, she had one back in -- but that's -- she's a good witness."

So arguing about propensity, yeah, it's exactly right, but the jury can take it for what it's worth. As the solicitors like to say, it goes to the weight not the admissibility. And she is a crucial eyewitness to this. She has a

pattern of not telling the truth. Maybe she's reformed, maybe she's had some awakening, and now she, you know, tells the truth all the time, but you have to get into what she's done.

If she was a defendant, I don't think anybody would tell you or argue to you that a 20-year-old conviction ought to come in, but witnesses are different, particularly eyewitnesses. Particularly eyewitnesses who they, and they alone are the State's case. And Ms. Brown, I believe, will provide testimony, whether it's true or not we don't know, that is very harmful to Mr. Polite that comes from no one else, and if believed by the jury, if believed by the jury is gonna go a long way in the State's case towards making their argument to the jury.

And so I think that as the rule says, you can decide in the interest of justice, and, again, we need to look at Stephan Polite's rights to a fair trial, and rights to confront his accusers. And in the interest of justice, certainly that is admissible. If Ms. Molina or Ms. Brown would say that's 20 years ago, they can do that all they want, but to keep it from

the jury completely, I think is inappropriate, and do think it's a valid line of cross-examination.

She's Ms. Molina's witness. Obviously, we can't get into specific facts. She can soft pebble it, she can get it out herself, if she wants to. And so that's the way I think that's limited.

The jury can decide for themselves how much weight they want to put on it, and, again, the propensity stuff applies to a defendant's -- or the propensity to commit a crime that they're charged with, not a witness, who has the propensity to lie and cheat and steal.

MS. MOLINA: I offered 404B, since he was talking about conformity of conduct. Certainly, he has the right to impeach her with the 2019. Offering the other ones is just confusing, and it's going to confuse the jury, because this incident didn't happen during those times.

She has a conviction that he can impeach her, and I'm certain that he will be thorough in it. The other ones only serve to confuse.

MR. LEE: Judge, you have an educated and sophisticated jury, I think by -- I mean like

eight people work for the Department of Defense, there's engineers out there, there's nurses, half the people are nurses. We have a very sophisticated jury, who's not gonna be confused by a conviction or multiple conviction of the defendant, so I don't think we need to worry about that.

I can't -- she said I can make a big deal about it. I can't go into the specific facts of it, she knows that. All we can do is say, "You have a conviction for this charge in this year," that's all that's gonna come in, and a jury can take it or leave it, have whatever weight they want to put on there.

THE COURT: Under 609B, these convictions, since they're over 10 years of age are not admissible, unless the Court, in the interest of justice, finds that the probative value of the conviction, support by specific facts and circumstances, if you'll both address that issue, specific facts and circumstances.

How does that relate to this motion? Mr. Lee?

MR. LEE: That's a good question. I think the specific facts and circumstances does not

refer to, well, she was working somewhere and took somebody's credit card, or used the company credit card, or, you know, I don't the specific facts of the underlying charges.

I think the specific facts and circumstances that you have to look at in determining the interest of justice is how that witness' testimony how relevant it is, how important it is to this trial, and what -- I would say what prejudice it is to the Defendant to have her testimony. And I think her testimony, number one, I believe is gonna corroborate with some other witnesses, who I think have their own credibility issues are.

And so, number one, I think corroborates other testimony, which necessarily makes that other testimony more believable, at least the argument is, but more importantly, from my review of the case, I believe Ms. Brown is going to testify to things that no one else testified to.

They're going to go to the absolute heart of our defense and the heart of the case, and we need to -- obviously, we don't agree with that, we need to be able to have every tool available

in order to impeach her credibility for telling the truth. If she was just one of 20 witnesses, it might be one thing, but I believe she's a crucial witness to the State.

I believe she's gonna provide testimony that is not, unless they've changed it or talked about it since, but what I have is, she's gonna provide testimony that is not included in anybody else's statement that goes directly to state of mind, a few other things that are very relevant, not only in their charge of murder that go to malice, but also go directly to the heart of our defense of self-defense.

So I believe that that would be what the probative value of the conviction, supported by specific facts and circumstances. And I think those are the specific facts and circumstances relative to this case that get that probative value so high that it substantially outweighs any prejudicial effect.

I mean who's being prejudiced by her saying, "Hey, you have all these convictions, and they go back to the early 2000s?" I mean is it gonna hurt her feelings? Is she gonna be embarrassed? You know, she's not -- what

prejudicial effect does it have at all? And if it has zero or little prejudicial effect, the probative value doesn't have to be that high to get you over the hump of substantially outweighing the prejudicial effect.

So I think that's what specific facts and circumstances are that you need to relay on this case. We're fortunate enough to have had had pre-trial hearings, so you know a little bit about the case, and I know Ms. Brown's testimony was referenced when Sergeant Byrd testified yesterday, and I think you know the significance of that.

And, obviously, it's important enough for them to argue in their stand your ground motion, and so that would be my interpretation of what 609B, that's what it stands for.

THE COURT: Ms. Molina?

MS. MOLINA: I just don't think the convictions outside of the 10-year relate to any of the specific facts or circumstances in this case. She was an eyewitness. They weren't somewhere taking credit cards.

She -- it wasn't they were hanging out at a party and this is the murder. It has nothing to

do with financial transaction card fraud or forgery. It's confusing, and it will confuse, because it will have the jury thinking about these other convictions, instead of whether or not she's telling the truth here today, versus who she was 20 something years ago.

And if he's concerned about truthfulness and untruthfulness, he has the 2019 that he can impeach her with, and that goes to her credibility just as much as those others. The 20-year ones are outside of the time limit. They don't serve any purpose, other than to embarrass and attack her with convictions that are not admissible, they're just not related.

MR. LEE: Those are arguments she can make to the jury, she can explain it, saying, "Hey, the conviction doesn't really mean anything, it was 20 years ago, so take that for what you want." You know, "He's using it to embarrass her." She can argue that to the jury, let the jury decide how important it is.

THE COURT: All right, in attempting to interpret the rule based on what's been presented this morning, I find that the 609 states, in part, "That if a conviction is more

than 10-years-old, it is not admissible, unless the probative value of the conviction, supported by facts and circumstances, substantially outweighs the prejudicial effect," and I do not find it exists, and will not permit those convictions outside of 10 years to be brought up. What else do we need to do?

MS. MOLINA: There are a few other witnesses, Natasha Robinson, she doesn't have anything within the 10 years, and the only other conviction I believe was simple possession of marijuana, which wouldn't fall into the category anyway.

Arthur Washington has no convictions. Crystal Evans has no convictions within 10 years. She had a conviction in 2010, three years' probation, 2015, outside the ten. Alexis Smalls has no convictions. Sherard Johnson has no convictions within 10 years. Randy Johnson, he has a 2007 conspiracy, conspiracy to possess with intent to distribute controlled substance and a weapons offense, for which he received six and a half years, and eight years of probation, 2007, so I believe that would fall within the 10 years.

Luon Campbell has no convictions. Shakeem Chaplin has a 2014 pointing and presenting, and assault on an officer while resisting, a 2017 possession of cocaine base, and a 2021 use of firearm under the influence, which happened about two weeks after the incident we're here today for. I think all of those would be admissible.

THE COURT: And that's as to which witness?

MS. MOLINA: That would be Akeem Chaplin.

THE COURT: Mr. Lee?

MR. LEE: I think she stated the law perfectly on that, Your Honor, I don't dispute that, as to those, I think all those can be admitted.

MS. MOLINA: Yes.

MR. LEE: Judge, not to belabor it, but getting back to the Althea Brown convictions, again, please not my objection for the record. I will renew that objection when she is called a as a witness, but I would also like to ask the Court to leave the door open, whereas, if her testimony is such that the prejudicial effect of her testimony, like I said, was such that that might change your opinion as to the probative

value of showing that she's a liar, if that changes on her testimony, I would ask you to consider reconsidering it at the end of her testimony, and in that weighing to see if that does change your mind, unless your ruling is interpreting the 609B in a different way that I propose it could be heard.

And I guess the question is, how is the Court interpreting that the thing that you put in, supported by specific facts and circumstances? I mean I told you how I thought that should be interpreted, I didn't really get any feel for how you were interpreting that provision of 609B.

THE COURT: And, I'm sorry, tell me what you're asking the Court to do now?

MR. LEE: Well, I guess, first, for some clarification as to your denial to let all of those things in. You asked us what we believed the specific facts and circumstances means under 609B. I gave you what my interpretation and opinion of that was. You ruled against it.

So I guess the first thing I'll ask for the clarification as to the Court's interpretation of that phrase, and how it applies to your

decision, number one. And then, number two, I would ask you to at least keep the door opened a little bit, let's hear what her testimony is, and if it does, in fact, contain things that are very harmful to the Defendant, that are not said by anybody else, to actually consider again your analysis of the specific facts and circumstances that you used to deny it here.

THE COURT: Solicitor?

MS. MOLINA: It sounds like he just wants to relitigate the hearing we just had after she testifies. He stated all the same reasons that he just argued. He found that it's not admissible in that 10 years. He keeps calling her a liar, but he has the conviction to call he a liar, and can't call her a liar with the other things he was saying, if he wants to argue that. I don't think that we need to revisit this again afterwards, to make the same arguments.

MR. LEE: Well, I'm first asking for clarification on the record for the basis of your ruling. That it seems to be based on the specific facts and circumstances. So I'm respectfully -- whether you want to do it or not, it's fine, but I'm respectfully asking for

the Court to tell me the Court's interpretation of that phrase, and the specific facts or findings that the Court is making under that phrase to deny my motion to be able to cross-examine her on those facts.

THE COURT: I thought I'd already done that, but I found no factual circumstances supporting the use of the convictions or having any probative value of these convictions.

MR. LEE: In the specific facts in this case?

THE COURT: I haven't heard any --

MR. LEE: Well, that's what I'm saying --

THE COURT: -- facts and circumstances.

MR. LEE: -- is -- that's what I was trying to say is, if specific facts and circumstances come to light during her testimony, I'm asking can that be reconsidered?

Can I raise it again, if you have the benefit of hearing what her testimony is? That you may say, "Oh, those are some specific facts and circumstances that are relevant to my determination, relevant to the probative value and the prejudice effect of it." And so I'm just trying to figure out --

THE COURT: Okay, I would allow it.

MR. LEE: All right.

THE COURT: I would allow it, to revisit this issue --

MS. MOLINA: Okay.

THE COURT: -- at the conclusion --

MR. LEE: Yes, sir.

THE COURT: -- of that witness' testimony.

MR. LEE: All right.

MS. MOLINA: We did find an unpublished case that will be published, a 2024 unpublished case that we'll bring to have ready at that time, unless you want to talk about it now. It just gives a little guidance on how to gauge the factor analysis employed by Federal Courts in weighing probative value of a prior conviction against its prejudicial effect under 609. The impeachment value of the prior crime, the point in time of the conviction, and the witness' subsequent history.

The similarity between the past crime and the charged crime. The importance of the defendant's testimony, and the centrality of the credibility issue.

MR. LEE: That's for the defendant.

MS. MOLINA: No, this case talks about a witness. It just references the defendant, I believe, but, you know, certainly the impeachment value of the prior crime we've talked about. The similarity, I mean she does have a 2019 one, but there is a gap in between where she doesn't have any convictions.

THE COURT: Anything else before the jury comes in?

MR. LEE: Nothing from the defense, Your Honor.

THE COURT: Well, I would like to say that both attorneys failed to mention to the Court yesterday when we were addressing the stand your ground law that I was the one that tried the case in State v. Curry.

At any rate, let's bring the jury in.

BAILIFF: Yes, Your Honor. The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

BAILIFF: The jury's seated, Your Honor.

THE COURT: Welcome, and good morning, ladies and gentlemen. I apologize again for this delay, we had some other matters we had to take care of first thing this morning, but we're

now ready to proceed. And the first thing we're actually gonna do that involves you is the Clerk will administer to you your oath as jurors. Madam Clerk?

CLERK: Please stand and raise your right hand. Do you solemnly swear or affirm that you shall well and truly try and true deliverance make between the State of South Carolina and a true verdict given according to the evidence, so help you God?

JURORS: I do.

CLERK: thank you.

THE COURT: Just a few things I'd like to say to you before we begin. As you've heard, the Defendant in this case was charged by way of two indictments, one, with the offense of murder, and the other with the possession of a weapon during a violent crime. The elements of these offenses will be given to you at a later date.

I tell you the indictment is simply the legal vehicle that gets the case into the Court. The indictment is not evidence of anything. The evidence in this case you will see from witnesses who take the witness stand, and other

evidence that could be introduced during the trial of the case.

The Defendant has pled not guilty to both of these indictments. This puts the burden upon the State to prove each of the elements of the indictments to your satisfaction beyond a reasonable doubt. It will be your duty, ladies and gentlemen, to determine whether the State meets its burden and obligation. Your purpose as jurors is to determine the facts of this case.

You're the sole judges of the facts of this case. If I do anything to cause you to believe I have an opinion about the facts of the case, you must disregard it, you decide what the facts are. On the other hand, as the Judge, I am the sole judge of the law of the case.

You must accept the law as I give it to you, even if you disagree with it, but you find the facts, I tell you what the law is, you apply the facts that you find them to the law. I can't disagree with you about what you find the facts to be, you can't disagree with me about what I tell you the law is.

Until this case is completely over, you're

not to let anyone discuss this case with you, or in your presence, and you're not to discuss the case with anyone else, including among yourselves even in the jury room, not until the case is completely over with.

And by that I mean, all of the evidence has been introduced, you've heard all the evidence, the attorneys will have made their opening statements to you, their closing arguments to you, then I would have told you about the law that applies in the case, and have told you then to retire to the jury room to begin your deliberations, then you may discuss this case.

In just a minute the attorneys will make to you an opening statement, where they will try to convince you or tell you about what they believe the facts are going to show in this case, or not show in this case.

After that then we will have witnesses testify, and other physical evidence presented to you. I ask you to pay close attention to the facts in this case, and once again, do not begin discussing this case until it's over, and we'll begin with the Solicitor making an opening statement.

MS. MOLINA: Thank you, sir, may it please the Court?

**

OPENING STATEMENT BY MS. MOLINA

MS. MOLINA: This case is about how far the Defendant is willing to go when he's been insulted and when he's been challenged.

On May 29th, 2021, friends and family gathered together to play cards and watch the NBA Finals. Amongst the guests are the victim, Anthony Rivers, Jr., also known as A.J., and the Defendant, their family members. The Defendant was there before A.J., and A.J. had been drinking, and was drunk when he was dropped off. The witnesses will tell you that he was running his mouth, but they ignored it.

And it was ignored until A.J. started running his mouth to the Defendant. And when he was running his mouth, he insulted him and he challenged him, and because of that the Defendant went to his car and got a gun, despite pleas not to. And as a result of that action, the night continued to escalate with the Defendant pointing the gun at the victim, beating the victim with the gun, beating the

victim, until, ultimately, the Defendant got in his car, and the victim upset, after he's been beaten, chases that car, pounds on it, and the Defendant opens the door and shoots him.

You'll hear that A.J. was challenging him. That every time the Defendant beat him, threatened him, A.J. challenged him, and that he kept getting back up, he wouldn't stay down.

The Defendant is charged with murder and possession of a weapon during a violent crime. Murder is killing another with malice aforethought. It's the State's burden to prove murder and possession of a weapon, that he used a gun during this murder to you'all beyond a reasonable doubt.

It's your job to listen to the witnesses and look at the evidence. And after you've done that, I'm gonna come back up here and ask you'all to find the Defendant guilty of murder, and guilty of possession of a weapon during a violent crime.

THE COURT: Thank you, Solicitor. Mr. Lee?

MR. LEE: May it please the Court, Ms. Molina, Sergeant Byrd.

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OPENING STATEMENT BY MR. LEE

MR. LEE: Good morning, everybody. It's my pleasure to introduce you to Stephan Polite, who's sitting at the table with me. His family is up here, too.

May 29th, 2021 was the height of the COVID lockdown, and it was that night, for most of us, probably just another night, but on a small dirt road in rural St. Helena, Keystone Drive, poorly lit, a small shed, that night was different, that night was different.

Now, it was a typical getting people together, you're gonna hear about this card party that they were gonna have. You'll hear some of the details about that. It seemed pretty ordinary.

They get together, somebody rents the house, the house gets a share of the stake in every game they play. People are invited, people aren't invited, but that night was different.

You're gonna hear a lot about Anthony Rivers, or as the Solicitor's already called him, A.J. Anthony Rivers, by all accounts, was a good guy, fun-loving, worked a couple jobs.

Yeah, he drank a little bit, like he got a little loud sometimes, but that was A.J.

And you're gonna hear about how Stephan Polite was close with him, helped him out when he needed something, knew what he was like. Yeah, he might get a little drunk, but, you know, the next morning he apologized, and you're gonna hear that, how A.J. is.

On May 29th, 2021, that night was different, ask Anthony Rivers.

Now, every day we make decisions, maybe a variety of decisions, like what color tie do I wear? So decisions based vary on importance, and that's not a very big decision.

I always ask my kids to make good decisions. That's not a big decision that will have long-lasting impacts to affect anybody. You don't spend a whole lot of time making that decision, it's really not that important.

So decisions can vary by importance, they can vary by the time you have to make that decision, and they can vary by several things, but, fortunately, when we make decisions about what tie to wear, it's not very important about how much time to do it, and it's not really a

big deal.

There's some decisions we make that are more important than that, and, fortunately, most of the time, we have time to make that decision. We have a chance to assess the situation. We have a chance to look at the pros and the cons, like where do you want to go to college? Who do you want to marry? Those aren't decisions that are taken lightly, they're not small decisions, and they're not made on the spur of the moment, hopefully, and there's a lot of information that's taken into that decision.

And that's a good thing when you're making a big decision like that. And that's almost always the case. A big decision, sometimes you don't have to think about it much, doesn't take very long, or a small decision. A really big decision, think about it, get your information, and take as much time as you want to make that big decision.

May 29th, 2021, that night was different. The decision that Mr. Polite had to make was a huge decision. It had to be made instantaneously, and he didn't have the benefit of time, he didn't have the benefit of thinking

about it, or putting it off, because that night was different.

And as a result of that, you're gonna hear how the case went along. Law enforcement decided to charge Stephan Polite with the murder of Anthony Rivers. And the Judge will go over the elements of that a little bit, and the Solicitor went over it briefly, he's charged with murder. What's murder you say? Murder is the unlawful killing of another person with malice aforethought. Malice, well, what's malice? Well, the Judge is gonna tell you at the end, he's gonna read you the little charge about what the law is, and, again, go by what the Judge says, but malice, the thing that they're required to prove, but before anyone can be convicted of murder, unlawful killing with malice, okay?

Malice is hatred, ill-will, or hostility toward another person. It's the intentional doing of a wrongful act without just cause or excuse, and with an intent to inflict an injury, it is an evil intent, malice. That's what murder is, killing somebody with malice. It's also defined as a wrongful intent to injure

another person. It indicates a wicked or depraved spirit intent on doing wrong. That's what we're talking about here. That's what they have chosen to present to you, is Stephan Polite murdered Anthony Rivers.

There's two problems with that. One, it has to be an unlawful killing, unlawful. If it's excused or justified, it's not unlawful. Sometimes you don't have a choice, things happen. And not only was it not unlawful, there was no malice, and you'll hear about that. And when you're looking at this case, I think the Solicitor briefly said, the way you look at it as a juror is, all right, our job is to decide whether or not there is reasonable doubt in this case.

As the State, who has the burden to remove all reasonable doubt from everybody's mind. Have they convinced you beyond a reasonable doubt of everything they have to convince you of, it was an unlawful killing with malice. They have to convince all 12 of you'all beyond a reasonable doubt of that. Well, what's reasonable doubt?

Well, reasonable doubt is defined several

ways. The most common is, a reasonable doubt is the type of doubt that would cause a reasonable person, when making one of life's important decisions like we talked about, to hesitate to act, to hesitate to act. The type of doubt that leaves you firmly convinced of a defendant's guilt.

You're telling me, as a juror, that the State through their evidence, through their resources, through everybody, you're telling me as a jury they have to prove all reasonable doubt from each and every one of our minds? Yes. That is a high, high standard, but you know what? It has to be, because before you can convict somebody, and label them a murderer, or whatever the case is, you've got to rid all reasonable doubt.

Because why? Because of the consequences. If someone's convicted, they lose their freedom, they can lose money, they can lose their liberty, they can lose everything, and so, yeah, it's that high for a reason, because of what's a stake, and it is a very high stand, and that's the standard you'll have to go by.

And you never know what the jury talks

about in the jury room, but my suggestion to the jury is, start talking about what are your reasonable doubts? Well, we probably think this, or it might have happened, or most likely, that's not reasonable doubt.

And so when you're hearing the evidence, again, they get to go first. They have the burden, they have this high, high burden of proving it, they get to go first, someone's got to go first, but Proverbs 17:18 says, essentially, that the first to speak often sounds as if he's telling the truth, until the other side stands up, and has something to say -- and we always have to go second.

And there's gonna be a lot more to say than what you're hearing, and you can also hear the defense's side, and you've got cross-examination. So sometimes, many times what's most important is not what you see or here, it's what you don't see and don't hear, because absence of evidence can also be grounds for reasonable doubt.

So lack of evidence, the type of thing that causes you to have a reasonable doubt.

And I'll say this, I know nobody signed up

for jury duty, particularly a murder case, but this one's different. That night was different, this case is different, it's a tragic night for everybody, for all the people on this side, and the people on our side, but nobody's gonna be able to bring A.J. back. We would if we could, but we can't. But our decision is what comes next?

That specific night it was different, and you can hear how it's different. And we're convinced and hoping and trust you'all, that when you hear everything at the end of the trial you can say that night was different. It's a unique case, and under our oath as jurors, you listen to the Judge, you listen to the lawyers, you listen to everything, that night was different, your verdict is not guilty.

Thank you.

THE COURT: Thank you, Mr. Lee.

MR. LEE: Thank you, sir.

THE COURT: You may call your first witness.

MS. MOLINA: The State calls Laine Powell.

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LAINE POWELL,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Good morning. Where do you work?

A Beaufort County Sheriff's Office.

Q And what is your job at the Beaufort County Sheriff's Office?

A I'm the 911 and Video Clerk.

Q Are you the Records Custodian for the 911 calls?

A Yes, ma'am.

Q And are those calls kept in the ordinary course of business?

A Yes.

Q Did you pull a call from May 29th, 2021?

A Yes, ma'am.

MS. MOLINA: May I approach the witness?

THE COURT: You may.

BY MS. MOLINA:

Q I'm handing you what has been marked as State's Exhibit 1.

Do you recognize that item?

A I do.

Q And how do you recognize that?

A My initials are on it.

Q And what is this?

A It is a 911 call.

MS. MOLINA: At this time State moves State's Exhibit 1 into evidence.

MR. LEE: No objection, sir.

MS. MOLINA: And request to publish.

MR. LEE: No objection.

(State's Exhibit 1 was admitted into evidence.)

THE COURT: Request granted.

(Audio being played for the jury.)

MS. MOLINA: No further questions for this witness.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MR. LEE:

Q It appears that that call lasted about 13 minutes; is that right? Have you looked at it, or looked at the time?

A Yes.

Q Okay, so it's a 13-minute call, right?

A Yes.

Q Okay, and one of the callers, the female, identifies herself on that call as Alexis Smalls, correct?

A Yes.

Q Okay, but the male speaker does not identify himself, does he --

A No.

Q -- is that correct?

A Correct.

Q All right, and were you actually the operator, or somebody else actually took the call?

A No, sir, I'm not a dispatcher.

Q Okay, all right, but you work there and you're in charge of the evidence, and that sort of thing, right?

A Yes, I pull 911 for evidence purposes.

Q Okay. And as a dispatcher did and should have done, she asked Alexis Smalls and the male voice, "Do you know who shot him," correct?

A Yes. Yes.

Q So she asked both of them, "Do you know who shot him," and both of them said, "No,"

correct?

A Yes.

Q All right.

A Sorry.

Q And they also said something about, "All we heard was a shot, and we didn't see a vehicle;" is that correct?

A Yes.

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

THE COURT: All right.

MS. MOLINA: No redirect.

THE COURT: Thank you, you may step down. You may call your next witness, Solicitor.

MS. MOLINA: The State calls Craig Garcia.

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CRAIG GARCIA,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Good morning, Corporal Garcia. Where do you work?

A My name is Craig Garcia, G-A-R-C-I-A.

Q Where do you work, Corporal Garcia?

A Beaufort County Sheriff's Office.

Q And how long have you been there?
A Ten years, 8 months.
Q And are you a member of the Crime Scene Team currently?
A I am not.
Q Were you in 2021?
A Yes, ma'am.
Q And how long had you been a member of the Crime Scene Team in 2021? When did you start with the Crime Scene Team?
A In 2019.
Q And you also worked the road --
A Yes, ma'am.
Q -- in 2021? Were you working on May 29th, 2021?
A Yes, ma'am.
Q Did you respond to 10 Keystone Drive?
A Yes, ma'am.
Q In St. Helena?
A Yes, ma'am.
Q And is that in Beaufort County?
A Yes, ma'am.
Q When you arrived on-scene, were there any other law enforcement officers there?
A No, ma'am.

Q What did you see when you got there?

A When I arrived there was a lot of yelling, screaming. There was an individual laying on the ground, and a female was trying to help him, and there was a couple other individuals standing around, someone was on the phone.

And then I went up and started to render aid, along with the young lady.

Q What were you rendering aid for?

A A gunshot wound.

Q Okay, and how were you rendering aid?

A I had a towel that was -- someone had had there, and I was trying to stop the bleeding, because it was through and through.

Q He was actively bleeding?

A Yes.

Q Was he bleeding a lot?

A Yes.

Q How long -- at what point did you stop rendering aid?

A When Fire and EMS arrived.

Q And after Fire and EMS arrived, then what were you doing on-scene?

A I photographed and interviewed Arthur

Washington, Jr.

Q I --

A I believe I marked some evidence.

Q I'm going to hand you State's Exhibit 2, 3, 4, 5, 6, 7, 8 and 10.

Do you recognize those?

A Yes.

Q What are they?

A They are photos of the crime scene and the shed or G building, and the location where I found the victim. The individual was laying on the ground, and evidence that's marked with the placards that I marked.

Q Are those photos, and not as to Exhibit Number 10, but are the other exhibits I handed you were those from the scene that night as you saw it?

A Yes.

Q And are they fair and accurate depictions of the scene?

A Yes.

Q Okay.

MS. MOLINA: At this time State moves State's Exhibits 2, 3, 4, 5, 6, 7, 8 into evidence.

(State's Exhibits 2 through 8 were admitted into evidence.)

BY MS. MOLINA:

Q Corporal Garcia, as to State's Exhibit 10, would this aid in your testimony of the scene?

A Yes. So the road is Capers Island, Keystone is at the end, where Capers Island turns into Capers Island Circle. If you take the left -- if you take the right, it's Keystone Drive.

Q Okay, would this assist your testimony?

A Yes.

Q Okay.

MS. MOLINA: State offers State's Exhibit 10 as a demonstrative and moves 2 through 8 into evidence.

MR. LEE: I would just ask -- I guess we could do it after. I don't have any objection to the introduction, but I need to know which one is which. I was going to say stage number two is a picture of whatever. If she can do that --

THE COURT: Solicitor?

MR. LEE: He can tell what they are.

BY MS. MOLINA:

Q What is State's Number 2?

A State's Number 2 is the entrance way to the address, 10 Keystone Drive.

Q State's Number 3

A Is another photo of the same entrance way to 10, with evidence marked in the forefront of the picture.

MS. MOLINA: He didn't object to these being moved into evidence, did he

THE COURT: I don't think he's objected, no.

MR. LEE: I'm not gonna object to coming into evidence, I just need --

MS. MOLINA: Then can State publish them and you can see them and their numbers?

MR. LEE: However she wants to do it.

BY MS. MOLINA:

Q Corporal Garcia, I'm gonna ask you to step down.

A Come over there?

Q Yes. Okay, State's Exhibit 10, what is State's Exhibit 10 again?

A It's the aerial view of 10 Keystone Drive.

Q Okay, and where is 10 Keystone?
A It's this trailer right here.
Q Okay, and where's the driveway for 10 Keystone?
A 10 -- Keystone Drive comes in this way, and then the driveway is at the 90.
Q Okay, and then I'm gonna hand you State's Exhibit 2, what is this?
A This is Keystone Drive and the entrance to 10 Keystone.
Q State's Exhibit 3?
A That's the overall of the crime scene with the evidence markings and the placards in the forefront here, and then 10 Keystone is right here.
Q Is this where you found the victim when you arrived on-scene?
A Yes.
Q And where you were rendering aid to him?
A Yes.
Q And you mentioned the placards are there. What are the placards?
A Placard 1 --
Q What do placards do in general?

A Placards are basically little teepees that can be made of plastic but mine were made of metal.

They're numerically marked 1, 2, 3, 4, etcetera, etcetera, and we placed them on evidence for anything of evidentiary value to mark each item as we locate them.

Q Okay, and State's 4, what is that?

A That is evidence marker 1, it is a shell casing.

Q And State's Exhibit 5?

A It is evidence marker 2, it's the towel I used.

Q State's Exhibit 3?

A Is plastic bags which the young lady was using.

Q State's Exhibit 7?

A It's a closeup of same plastic bags.

Q And State's Exhibit 8?

A Is the house or shed where Arthur Washington, Jr. was.

Q Okay. Where you interviewed him?

A Yes, where -- that's where he -- that's where I interviewed him, on the front porch.

Q Where is the shed on State's Exhibit 3?

A It is right here.

MR. LEE: Judge, I have no objection to the introduction and publishing these.

THE COURT: All right, and the exhibits are entered into evidence.

BY MS. MOLINA:

Q After you marked evidence and taped off the scene, what else did you do?

A I photographed.

Q Did you create any kind of sketch?

A I did. When the investigators got there and assumed the scene, I then converted my role to crime scene tech.

Q Did you -- well, did you create a sketch?

A Yes, ma'am, I did.

Q And how do you -- I'm gonna show you State's Exhibit 9; do you recognize this?

A Yes, ma'am.

Q And what is this?

A Excuse me, that is the sketch of the crime scene.

Q And it is a fair and accurate representation of your sketch?

A Yes.

Q Okay.

MS. MOLINA: State moves State's Exhibit 9 into evidence.

MR. LEE: No objection, sir.

THE COURT: Admitted without objection.

(State's Exhibit Number 9 was admitted without objection.)

MS. MOLINA: And permission to publish.

MR. LEE: No objection.

THE COURT: Certainly.

BY MS. MOLINA:

Q And if I could have you down again? How do you create these crime scene sketches? Where do you start?

A So we would -- I would start with a rough draft, get my notebook, and I would jot down everything that's on-scene. So I knew that I had 10 Keystone is the house, so I would draw the house, the shed, I would draw the shed, any vehicles that were on-the-scene, and then the roadway, and then I would mark where the placards were located, so there's 1, 2, 3, 4, and I would mark those on my rough draft.

So then we take --

Q And we didn't see placard 4, but what

is placard 4?

A Placard 4 was a glove.

Q Like an EMS glove?

A It was a rubber glove, yes, ma'am.

Q Okay. And so you mark it with your placard, and then what do you do? I'm sorry.

A So then we would pick measuring points. They're normally fixed, immoveable objects, telephone poles. We like these telephone poles. We can use water marks. If there's no poles or any markings, we put stakes in the ground, and we would GPS it and put in GPS coordinates. So in this scene I was lucky enough to have two power poles.

Q And are these the power poles?

A Yes. Yes, there's one beginning at the 90, and then there's one by the -- by that residence.

Q Okay, and so you mark the power poles, and then what do you do?

A So then we measure from A to 1, 2, 3 and to 4, and we write those distances down. And then we do the exact same thing from B. We measure from B to 1, from B to 2, from B to 3, and then I can give this to you, even though

it's not to scale, take you out to that location to those markings, power pole A, power pole B, and this crime scene can be recreated to the T, because these points will all intersection, because you've got a measure A and a measurement B, and you'll be able to just intersect them by the distance.

And then you have a -- there's a key that goes with this, that tells you what everything is and what the distances are. The power poles will have their pole number, SC&G pole, A, B, C, 1, 2, 3. So you can get the county map, the county plat, and you can go and they'll have exactly where those poles are, because it's all documented.

Q And after you finish getting your measurements for the scene, what did you do?

A Then once I was cleared up, then I went and made the official drawing that's submitted into evidence.

Q And on-the-scene after you were done, did you just maintain security until investigators arrived?

A Yes, ma'am. I explained what I had on-scene to the investigators, and then basically I

was up to see security.

Q Okay.

MS. MOLINA: Beg the Court's indulgence.

BY MS. MOLINA:

Q Was the victim still alive when you were there?

A Yes.

MS. MOLINA: The Court's indulgence.

BY MS. MOLINA:

Q No further questions. Please answer any that Mr. Lee has.

THE COURT: Cross-examination?

MR. LEE: Yes, Judge.

**

CROSS-EXAMINATION

BY MR. LEE:

Q Good morning, Corporal Garcia.

A Good morning.

Q To go through a couple things. You said when you got there he was on the ground, and there was a female trying to help him; is that right?

A Yes, sir.

Q Is that the lady who was dressed up in African garb, the yellow and orange and brown;

do you remember?

A I do not recall --

Q Okay.

A -- what she was wearing.

Q Okay. Did -- you didn't get a name or anything from her?

A It wasn't until later when I got a name, it --

Q Natasha Robinson?

A Yes.

Q Okay, but she was there to help him, all right. And when people were trying to help, did you observe Mr. Rivers fighting, resisting, pulling away, upset, anything like that?

A Yes, he was rolling around and --

Q I mean cooperative. Did you see him when he threw Ms. Robinson away, who was trying to help him; did you see that, or was that later?

A I did not.

Q Okay. And you talked about you did an interview with Arthur Washington, he's the fella that lives there, right?

A Yes.

Q And --

MS. MOLINA: I'm going to object on the basis of hearsay, if he's eliciting what Mr. Washington said in an interview, and if he's not, no problem.

MR. LEE: I'm not offering the truth of the matter asserted.

THE COURT: And it's being offered why?

MS. MOLINA: May we approach?

THE COURT: Okay. If you'd like to stand up and stretch a moment? If you do, feel free.

(Bench conference.)

BY MR. LEE:

Q All right, what I was going to ask you is, you interviewed Arthur Washington right then after things settled down, right?

A Yes.

Q He's the owner of the house?

A Yes.

Q And he said the same thing he said on 911, that he was inside the house, heard a shot, doesn't know anything that happened, right?

A Yes.

Q Okay, and you're referring to the report you wrote, right?

A Yes.

Q Okay. And when you write these reports, you kind of write them as soon as you can after the events so it's fresh in your mind, right?

A Yes, sir.

Q Because three years later we're sitting in Court, and you can't remember some stuff like the rest of us, right?

A Yes, sir.

Q Okay. As a crime scene tech dealing in crimes, does it make your job more difficult when people lie to you?

A I don't interview anyone as a crime scene tech.

Q Well, as an investigator. Whatever capacity you were in when you interviewed Arthur Washington, when you do an interview and somebody lies to you, does it make your job more difficult?

A If I can prove it's a lie, yes, sir.

Q Okay, but if you can't prove it's a lie, then --

A I just take what they tell me and --

Q Okay. Okay. And when you interviewed Mr. Washington, it was on the porch of that

little shed we're talking about, right?

A Yes, sir.

Q That you took a picture of it?

A Yes, sir.

Q That shows it right there?

A Yes, sir.

Q Which is State's Number 8? It says 8 on it?

A Oh, yes, sir.

Q All right. So I'm going to point to you and then point to them. When you interviewed Mr. Washington, he was on the front stoop or the front porch of that shed, right?

A Yes, sir.

Q Okay, and he was in between you and the door to that shed, right?

A Yes, sir.

Q Okay, and it appears that all the lights are off in that shed?

A In that picture, yes, sir.

Q Okay, and you took that this night?

A Yes, sir.

Q Okay. So, again, you said he was on the front stoop of the shed, right?

A Yes.

Q All right. And he was between you and the shed, the shed door?

A Yes

Q And actually there are a couple other people there with him too that had come along later on, right?

A Yes, sir.

Q Okay, and did Mr. Washington ever invite you inside the shed?

A No.

Q Did you ever look inside the shed?

A No.

Q Okay. Did he ever tell you the significance of possibly the shed, because that's where the card game had been?

A I didn't know anything about a card game.

Q Okay. And all the lights were off in the shed? The door was closed?

A The door was closed, but I don't recall whether the lights were -- in the picture it looks like they were off, but I don't know.

Q Okay, and is it your understanding there had been a gathering there during the basketball game, a few people playing cards

inside that shed?

A I do. It was -- I was told it was some sort of gathering.

Q Okay, but it appeared that nothing was going on the shed when you got there, right?

A No, nothing was going on anywhere, just that --

Q Okay.

A -- individual laying on the ground, and people trying to --

Q I'm asking about the shed. Corporal Garcia, in your experience have you ever -- or is it common, if someone is trying to possibly -- like if I wanted you not to notice -- is it common for defendants sometimes to kind of block something that they don't want you to see?

Have you seen that before? They kind of subconsciously kind of block --

A Yes.

Q Does that make sense?

A Yes, sir.

Q Okay. So you can't testify what was inside that shed?

A I have no idea what was --

Q TV, cards, guns, drugs, you don't know

anything that might or might not be in that shed, right?

A No, sir.

Q Okay. Well, Ms. Washington didn't invite you into the shed, and you really had no reason to go in it, but that you didn't know the possible significance of the shed?

A Yes, sir.

Q Okay.

MR. LEE: No further questions, Your Honor. Actually, let me ask another one, I'm sorry.

BY MR. LEE:

Q The picture that is State's Number 2 --

A Yes, sir.

Q -- okay, I think that's what I think a lot of people kind of refer to as the 90-degree turn at Keystone; is that right?

A Yes, sir.

Q Okay, so -- and if you're looking at it, this is the way out, right? This way?

A No, back toward -- so see where the --

Q Okay.

A See where the --

Q So this is going out of Keystone.

A See where my patrol vehicle is?

Q Yes, sir.
A That's the driveway to 10.
Q Okay, got it.
A So Keystone is the road --
Q Right.
A -- where that blue fence is.
Q Okay.
A So you're -- like you're almost gonna drive into that telephone pole --
Q Correct.
A -- and 90's right there.
Q Okay, and that 90 is, again, to get out of Keystone you've got to go up and take a left on 90, right?
A Yes.
Q Okay, and that shows kind of the scene how it narrows up right there?
A Yes.
Q Okay. And are you aware that there are deep ditches on the side of the road right there?
A I knew there was one on the other side of the fence.
Q Okay.
A I wasn't -- I'm not sure on the other

side.

Q Okay, all right, but it does kind of bottleneck right there, if you go to that 90, right? The road kind of --

A Yes, sir.

Q Okay. And it'd be pretty difficult to get two full-size cars going through where it's at, right?

A No, they got a firetruck in there.

Q Okay, but they couldn't get the stretcher in there, because the firetruck was blocking everything, right? Do you know they had to move the firetruck to get the stretcher through there?

A Yeah, but it's pretty --

Q But that does narrow right there, right? If somebody's coming down the middle of the road, there's not on each side, and there's a gate and there's woods, you can't get around it, can you?

A I don't recall, but --

Q Yeah.

A -- I mean it's a dirt road, yes, sir.

Q Okay, gotcha, all right.

MR. LEE: No further questions, Your Honor.

THE COURT: Redirect?

**

REDIRECT EXAMINATION

BY MS. MOLINA:

Q Arthur told you he's the one that called 911?

A I don't think he told me he called 911. I don't recall. There was a female on the phone when I got there.

Q Okay.

MS. MOLINA: No further questions.

BY WITNESS:

A Arthur was yelling.

Q Arthur was yelling?

A Because he apologized. I guess he said something to me, or something, and I didn't even -- I was worried about other things, I didn't hear it.

Q Okay.

MS. MOLINA: No further questions.

THE COURT: All right. Thank you, sir, you may step down. You may call your next witness, Solicitor.

MS. MOLINA: The State calls Michael Perkins.

**

MICHAEL PERKINS,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Good morning, Sergeant Perkins, where do you work?

A The Beaufort County Sheriff's Office right here in Beaufort, South Carolina.

Q And how long have you been with the Sheriff's Office?

A This year will be 20 years.

Q Were you working on May 29th, 2021?

A Yes.

Q And did you respond to 10 Keystone Drive?

A I did, yes.

Q Is that in Beaufort County?

A Yes.

Q When you arrived on-scene, what did you see?

A When I initially arrived, the liaison Fire Department and Corporal Garcia were already on-scene, and they were treating or tending to

the victim that was laying on the ground with a current gunshot wound.

Q And what did you do after you saw them working on the victim?

A They were attending to the victim. There were some people that were standing around, and I do believe I went to -- I saw -- I met with a Ms. Alexis Smalls who was standing outside.

Q Did you find anything while you -- when -- after you arrived?

A Yes. Near the victim there was a shell casing that was on the ground that I did notice.

Q Near where the victim was laying?

A Correct.

Q I'm gonna show you State's Exhibit 3 and State's Exhibit 4. In State's Exhibit 4 is that where you saw the victim where they were working on him in that area?

A In this picture? Yes, there's clothing and -- on the ground, and that's where the victim was.

Q Okay, and after you found the casing in State's Exhibit 4 what did you do?

A I stayed there, and as the EMS and Fire

personnel was still treating the victim, I stayed there and marked it with my foot, so no one would step on it or cause any movement of it.

Q So that until it could be marked with the placard?

A Correct.

Q And when you found the shell casing, did you tell anybody you found it?

A I'm sorry, say it again?

Q Did you tell anybody you found this shell casing?

A I do remember I did tell some Fire personnel were in the area, and I did a few times say, "There's a shell casing, be careful, don't step over here," something along those lines.

Q While you were marking it and protecting?

A While I was there protecting it, yes. And then I do know, eventually, when the investigators were called and I think Corporal Garcia as well, I actually had him, when things were settled, to mark it with a placard.

Q And when you interviewed Alexis --

A Uh-huh.

Q -- did she indicate whether or not she saw what happened?

A She did. She indicated she did not see what happened. She was inside the residence at the time.

Q Okay. No further questions, please answer any that the defense has.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MR. LEE:

Q Alexis Smalls, who lives there, told you she didn't see what happened, she was inside the house and she heard a gunshot?

A Correct.

Q Okay, and then she told you that her and Arthur Washington were inside the house, and they heard a gunshot and they both ran outside, right?

A I'm not sure who Arthur is, but she said her boyfriend.

Q Okay.

A But, yes, they're inside --

Q You don't know if that's Arthur

Washington or not?

A I'm sorry.

Q You don't know if that's Arthur Washington or not?

A Her boyfriend?

Q She says boyfriend.

A I don't know who the boyfriend was, she just said her boyfriend, I don't know if --

Q She again repeated the story, inside, one shot, ran outside, didn't see anything?

A Correct.

Q Okay. And she also went as far to say that --

MS. MOLINA: Objection, hear say.

MR. LEE: She asked him what she said earlier.

MS. MOLINA: It was limited to where she was as we heard the 911 call.

THE COURT: Sustained.

MR. LEE: Okay, no further questions.

THE COURT: Any redirect?

MS. MOLINA: No redirect.

THE COURT: All right, thank you, you may step down.

WITNESS: Thank you, Your Honor.

MS. MOLINA: Judge, may we approach?

THE COURT: The jurors okay, or do you need to take a break? You okay?

(Bench conference.)

THE COURT: Ladies and gentlemen, there are apparently other people who do need a break, so let's take a short 10-minute recess. I ask you to retire to the jury room but I remind you it's too early to begin discussing the case.

(Jury exits the courtroom.)

THE COURT: All right, we'll be in recess.

(Recess)

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PROCEEDINGS CONTINUED

THE COURT: Are we ready for the jury?

MS. MOLINA: Well, while we have a minute, just for housekeeping matters. I told our witnesses that have to travel from Columbia and Charleston to plan on coming tomorrow.

I rearranged it with everybody that was local to get them in today, and I thought we might be cutting it too close to get the Columbia and Charleston people done by the end of the day, and then having to make them come back, so I told them to come tomorrow morning to

be safe.

THE COURT: So what does that do to your time schedule for today?

MS. MOLINA: Nothing, nothing.

THE COURT: Oh.

MS. MOLINA: I was just letting you'all know --

MR. LEE: Okay.

MS. MOLINA: -- that I have told them, so if we really breeze through this, but I -- based on yesterday I didn't think we would be rolling at a quick pace.

THE COURT: Okay.

MS. MOLINA: Which is fine, that's why I told them Wednesday to make sure we --

THE COURT: But, nevertheless, are we ready for the jury?

MS. MOLINA: Yes, sir.

BAILIFF: Yes, sir.

THE COURT: Just tell the jury we're ready when they're ready.

BAILIFF: Yes, sir.

THE COURT: We can probably bring the State's next witness into the courtroom, since that witness wouldn't be observing any

testimony, right?

MR. LEE: Correct.

THE COURT: So we don't have to send out for the witness. If the witness can just have a seat back there until we're ready.

BAILIFF: The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

BAILIFF: The jury's seated, Your Honor.

THE COURT: Welcome back, ladies and gentlemen, I believe we're ready to resume the presentation of evidence by the State. Solicitor?

MS. MOLINA: The State calls Natasha Robinson.

NATASHA ROBINSON,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Ms. Robinson, do you have a nickname?

A Yeah.

Q What's your nickname?

A Banger.

Q And why is it Banger?

A I got the name playing basketball in high school, and it just stuck.

Q Do you mind if I call you Banger?

A It's gonna seem weird, because I'm only used to like, you know, people I went to school with, and play basketball and sports and stuff, but I mean --

Q Okay. Where do you live?

A At 27 Vinewood Lane on St. Helena Island.

Q Okay. And what do you do for work?

A I'm 100 percent disabled, a United States Army Veteran. I'm also an AAU basketball coach for youth. I'm a youth advocate, and I work on contracts for performing artists for the American Cruise Line Tours, and a member of the Traveling Theater Corporation.

Q Okay. And do you know Anthony Rivers, Jr.?

A Yes.

Q How did you know him?

A Well, I met him, actually -- he was about 2 or 3-years-old when I met him as a kid.

Q Okay, and would you say you'all were friends?

A Yep, from the time I returned home from the military in 2010. Yeah, we all -- we were all friends.

Q Do you know Stephan Polite?

A Yes, I know Stephan Polite, we're also friends.

Q Do you see Stephan Polite in the courtroom?

A Yes, I do.

Q Can you identify something he's wearing?

A A gray blazer with a black shirt.

MS. MOLINA: Please let the record reflect the witness has identified the Defendant.

THE COURT: So noted.

BY MS. MOLINA:

Q And so you and Anthony and Stephan were friendly. Did you'all ever hang out?

A I mean we all pretty ran pretty much in the same circle. We came out to the basketball court. We played basketball together a lot of times on Sundays.

When my cousin, Zech lived here, we used to be at my cousin's Zeh's house, we'd play cards together and stuff like that, he's a good guy.

Q And you'all would play cards together, right?

A Yes.

Q You and Stephan and Anthony would be there?

A Yeah, we'd play cards too.

Q And you had -- did you'll have a group of people that got together regularly?

A Yeah.

Q Same people?

A Mostly, yeah. Pretty much the same people. Every now and again a new person would come and be a part of some little card playing circle.

Q Did you'all take turns hosting?

A Yeah.

Q And what did it mean to host? What does the host do?

A You bring all the food and drinks and the cards, and you kept the house, you know, at the house you'd serve everybody, and basically just oversee the card game.

Q And you'all took turns doing that?

A Yeah.

Q Did you play cards at 10 Keystone

Drive?

A Now, I can't tell you everybody's address, so I --

Q At the G shed?

A Yeah.

Q At Arthur Washington's G shed?

A At Arthur Washington's house, yeah.

Q Okay. And did you do that regularly?

A Yeah. He hasn't had the shed that long, but -- so that was like about the second game I had been in there at the shed, but, yeah, we -- I mean, I believe that was the third game I was at the shed, but we all played.

And sometimes it'd be at somebody else's house, because I had hosted it at my house before.

Q And you'all were playing for money, but it was friendly?

A Yes. A friendly game of -- yeah.

Q Now, I'm gonna bring you back. On May 29th, 2021, did you go to the shed at 10 Keystone to play cards?

A I went to the shed at Arthur's house, yes.

Q Tell me what were you doing before you

got to the shed?

A I had just performed for a wedding downtown right across the street from the old Bay Marketplace. They have buildings there where people have weddings and different events.

Q Okay, and so after the wedding what did you do?

A I was driving home and my cousin, Renee Brown, we call her Pumpkin, Pumpkin gave me a call and said, "My card game is today, I'm still at work, I'm gonna be running a little late.

I'll split it with you and we can do this together, I just need you to go to my daddy's house," 'cause all her food and stuff was there, and she didn't think she was gonna be on time, so she was like, "I know you've got plates," and whatever, whatever.

You know, so I gathered stuff together some stuff together, and I went to her father's house and picked up the food and beers and sodas and everything, and took it over there to Art's house and to the shed and started setting up and cleaning up the shed for the card game and also the basketball game because he had put a big screen TV in there so everybody could watch the

playoffs.

Q And so it was a gathering for a group of people? It sounds like you're bringing a bunch of food and drinks and stuff. There's gonna be --

A Well, yeah, well, we had card party, there's food and drinks and stuff.

Q How many people can play cards at a time?

A Five people at a table.

Q And were there more people there than could play the game at any one time?

A Well, at the beginning of -- well, in the whole culmination of events, yeah.

Q Okay. Who arrived after you got there?

A After I got there, Stephan arrived, Pumpkin arrived, I want to say. I don't know how long it was before --

Q But Anthony wasn't there yet?

A No.

Q And Stephan arrived before Anthony?

A Yeah, and Anthony and Art was already there, setting up the TV when I got there.

Q How did Stephan appear when he got there? What was his mood like?

A Happy, you know, in the same normal mood he's usually in. He's normally happy, jokey, we all talk stuff and laughing and --

Q What were you wearing?

A Oh, Lord.

Q You left the wedding, did you go home and change?

A I did go home, 'cause I grabbed pens, and two bottles of liquor and cups and plates and forks and napkins, and -- but I don't know if I was -- I wasn't in that -- I don't know if I was in that African thing that night or not, to tell you the truth. I can't remember what I was wearing.

Q Okay. Were you there when Anthony was dropped off?

A Yes, I was there when Anthony was dropped off.

Q Okay. And tell us about that.

A Well, I was taking like some trash out, old water bottles and stuff, and threw them in the trashcan. And there was some other people who had arrived, and they were coming up the step, and, of course, someone had just dropped A.J. off, that's Anthony, and he was just

looking up at the sky, screaming like bloody mercy, like, ah, ah, ah, ah, just looking up at the sky and screaming.

And the people who were coming in was like, "Oh, Lord, there's gonna be some trouble," or some kind of comment they made. And I said, "No, he's gonna be all right, you know, he's probably just a little drunk or something, 'cause he's drunk, it'll be all right, but --

Q Why did you assume that he was drunk?

A Because I mean normally you don't usually blah, screaming up at the sky, or anything like that, but -- and then I saw -- I actually saw him earlier, and he was in a good mood, and they had just gotten off from work, because he had started working -- the liquor store, and they had just gotten off work, and they were going to - whatchamacallit seafood restaurant on St. Helena Island to get something to eat, and they were just gonna hang out or whatever.

And so I figured that maybe all that liquor and stuff they had bought out at the liquor store, that he was, you know, pretty drunk.

Q And did you know him to get drunk on

the weekend?

A Yeah.

Q Did you know him to talk trash when he had been drinking?

A Most of the time he is kind of silent unless you say something to him.

Q Okay.

A Other times -- he's not a very confrontational person, and he don't believe in weapons, everybody knows he don't carry guns, he doesn't like guns, but he do -- he get loud and what's the word? Like -- I don't know, what's the word?

Like stiff and, well, like when you say stiff like, you know, you're gonna have to move me, you ain't gonna change my mind.

Q Stubborn?

A Yeah, stubborn is good, yeah.

Q Now, did he say anything to you after he was screaming? Did -- what happened after he was screaming?

A Well, when he was out there screaming, he started, you know, coming in -- into the shed.

Q Okay.

A And I was asking him, "Are you all right, A.J.?" And he was like, "Why would I not be all right?" Or he just made, you know, a comment or whatever that was just blatant and dry, but he wasn't aggressive towards me or anything.

He came in, and he sat on the cooler, and he was sitting on the cooler for a little while, and we had started to get set up, those two tables, and --

Q Did he call you whack? Did he say, "You're whack, Banger?"

A No, he called Pumpkin whack.

Q Okay.

A He had called Pumpkin whack. Oh, you know what, he -- when we were coming in the door, he did -- he told me I was whack or lame, but I didn't take it as anything, because I mean we always talk stuff to each other.

I mean everybody talks stuff to each other like that, but I didn't take it as nothing, but he came in and sat on the cooler, and then they were playing cards.

And he like just jumped up all of a sudden and the boy, Akeem, was in there with a backpack

on. He just approached them and started like patting him down, he's like, "You've got a gun? Nigga, you got that, huh?

He was like, "Man, stop," and he'd be pushing like, "Come on, man, what you doing?" He's like, "You got your piece on you? You've got your gun on you?" And he was like, "No." He was like, "So how you gonna kill me?" And Akeem is like, "What?" He's like, "Man, you are a B." He goes --

Q You can say it, it's okay.

A He goes, "Hey, you a bitch, you can't even kill me, you bitch." And Pumpkin was like, "A.J., what's wrong with you?" And he just started backing up, but he was like, "I'm not talking to you, Pumpkin."

Like kind of real blatant and weird, like he -- Pumpkin, her momma, and daddy and them, you know, they always look after him, so he's always like nice to them, so I was like, all right, something is off, and --

Q But --

A -- people don't believe in spiritual, but I do.

Q But --

A I thought it was a demon working.

Q -- neither you nor Akeem or Pumpkin reacted confrontationally?

A No, he sat back down on the cooler --

Q Okay.

A -- at that point, when he had told Pumpkin he wasn't talking to her or whatever, he sat back down on the cooler. And then A.J. said -- I mean then Stephan said, "Cause you are right," and he jumped up, and Stephan was standing like by the wall, drinking his drink, chilling, and A.J. jumped up and was like, "You've got your -- you've got a gun on you? You've got a piece?" You know, and started like doing the same thing to Stephan. Stephan pushed him and was like, "Man, what's wrong with you?"

And he rushed back up on him, and, you know, he started doing it again. Then he was like, "You're a bitch, you can't kill me. You know, you a bitch and he ain't got nothing on you, you're a bitch," and that's when --

Q When he -- when you say ran up on him, does that -- he was chesting him?

A Yeah, he like came face-to-face, you know, pretty much the same thing he did, and

like was trying to, you know, pat him down or whatever, looking to see if he had a gun. And so that's when, you know, Stephan pushed him and was like, "What's wrong with you? Get off me."

And he was like, "Oh, you bitch, you bitch, you ain't got no gun? You can't kill me? You know, you a bitch."

So then Stephan just like was just silent, like going out the door. That's when Pumpkin looked at me and said, "Damn, I hope Stephan don't bring no gun in here."

MR. LEE: I'm gonna object to it being hearsay, she's trying to say what Pumpkin said. Pumpkin isn't here.

BY WITNESS:

A It's not hearsay, she was speaking --

THE COURT: Hold on, hold on, hold on just one minute, hold on, hold on.

MR. LEE: Anything anybody says to her is hearsay, and if they want to call Pumpkin, they can call Pumpkin --

BY WITNESS:

A Pumpkin --

THE COURT: Hold on just one second.

MS. MOLINA: I'll with withdraw the

question.

THE COURT: All right, motion is sustained, question withdrawn.

BY MS. MOLINA:

Q So he got upset, went outside and you followed him?

A Yes.

Q As -- what are you doing -- what are you seeing as you're following him?

A He opened his car door and he reached down like he was pulling something from under the seat, when he closed the car door, he had his gun in his hand.

And so that's when I went to him, and I said, "No, Stephan, no, don't bring your gun in here, there's no need in doing that." I was like, "Put that gun away," and he was like, "Nah, ain't nobody gonna talk no shit to me."

I said, "No, don't do that, don't -- we don't need," he said, "I ain't gonna shoot it, I'm just gonna carry it, to let him fucking know that nobody's gonna fuck with me like that." And so he was indicating that he was just gonna put it where A.J. could see it, so A.J. would leave him alone, is what he indicated to you?

A He said he gonna let the motherfucker know that he can't fuck with him like that.

Q And does he go back into the shed?

A Yeah, he goes back in the shed, and then he walked past A.J. with the gun on his side by A.J., and when A.J. saw the gun he just automatically jumped up and said, "Oh, you gonna kill me?" He said, "You gonna kill me now? You're gonna kill me?" And that's when --

Q So when A.J. saw the gun that Stephan brought into the shed, it riled him up?

MR. LEE: Your Honor, I'm gonna object to the leading questions. She's leading her witness.

THE COURT: I'll sustain the objection.

MR. LEE: All right.

THE COURT: I sustain it.

BY MS. MOLINA:

Q What's happening inside the shed?

A Well, now, A.J. is trying to approach Stephan and Art, and -- well, first it was just Art, and was pushing A.J. like, "Come on, A.J., come on, come on, let's go outside."

And A.J.'s like, "No, you gonna shoot me? You gonna kill me? Kill me, kill me, man, just

kill me, kill me," just kept saying it. And Art was trying to move him, and it was like he was immobile.

And somebody else jumped up, I think it might have been Thurston, and they was trying to get -- pull A.J. out, and thought they could move his arms, 'cause his feet was like cement --

Q While in --

A -- like couldn't move.

Q While in the shed did Stephan ever pull the gun out?

A Yeah, not at that time though. He -- after they'd taken -- got A.J. out, somebody else had come.

When he came he grabbed A.J. by his feet, and that's how they was able to get him like to the door. When he got to the door, he like braced his fingers on the door jamb.

They tussled with him for a while, and then they finally like fell out onto the porch. And when they fell on the porch, A.J. jumped up and he like ran back into the shed, and that's when Stephan pulled the gun out, he held it up, and that's when everybody just started to run.

I know I ran out the door, and Pumpkin right beside me, because we ended up running and ducking behind the same car, but there was no shots fired or anything --

Q Okay.

A -- in the shed.

Q Did you hear the Defendant say anything when he pulled the gun out, make any threats?

A "I'll put your ass in a wheelchair."

Q What happened after that?

A After that they tussled with A.J. back outside again, and now that he was out, I mean they're out --

Q Who tussled them out?

A Art and them.

Q Not Stephan?

A No, he was still inside of the shed. And then that's when somebody had closed the door, and was like, "Stephan, stay in here, we're gonna, you know, get -- try to get A.J. out of here."

And so there was still some people in the shed, and myself, Art, Lexis, and Pumpkin was all outside, and they was like, you know, trying to tell A.J., "Look, just go home, you're drunk,

you know, just go home, man, go home," and he was like, "I'm not going nowhere."

And Art was like, "Come on, man, go," and Alexis came and was telling him, "You scared my kids, A.J., just stop, you're scaring the kids."

And then A.J. was like, "Shut the fuck up, Alexis."

And then Art was like, "A.J., man, you're talking to my wife like that, come on, now, you know you don't talk to Alexis like that, just go, you've got to go home, you've got to go home."

And then that's when A.J. was like, "Hey, you owe me some money, Art? Don't you owe me some money? Give me my money." And he was like, "Yeah, Banger, you owe me $10, give me my money."

So I gave -- I said, "Here you go," and he didn't even want to take the $10 from me. And then he just turned away and he went to -- and he's like, "Give me my money, Art," and so Alexis tried to give him some money.

He moved his hand and he hit the ground, and that's when Pumpkin walked out and was like, "A.J., just please go home, just please go

home." And she picked up the money off the ground and tried to put it in his hand.

And he moved his hand out of the way, again, let the money fall, and then he just was walking around. He's like, "I'm not going home, I ain't going home." And --

Q And Stephan is still --

A -- people started coming --

Q -- in the shed while --

A Yeah.

Q -- this is happening?

A Yeah. And people just started coming out of the shed, you know, 1, 2, 3 people at a time, even there was still cars and stuff pulling up before just getting out of their vehicle, standing around, watching, listening to what's --

Q Is --

A -- what's going on.

Q -- A.J. still trying to get in the shed, or --

A He's out there like walking and pacing side-to-side, talking back and forth with Art and Alexis, and, you know, every now and again he would yell out, "You gonna kill me, mother

fucker? Come on and kill me."

Q Who was he yelling that at?

A To Stephan. He was -- A.J. was trying to look through the window on the, you know, he'd walk by, try to look through the window and shit, and just cursing and being mad at the fact that he was saying he wasn't gonna go home.

Q Did A.J. threaten Stephan during that? Make any threats?

A Not that I remember.

MR. LEE: I couldn't hear the answer to the question.

BY WITNESS:

A Not that I remember.

MR. LEE: Okay.

BY MS. MOLINA:

Q Now, what happens after that? Are you'all still outside trying to calm him down?

A We're still outside. By this time now most of the people drifted out, and it's probably like one other person other than Stephan, who was in the shed, and then Stephan comes to the door, and starts coming out.

And I was like, "No, no, no, don't come out, don't come out." He was like, "No, I'm

leaving, I'm not staying in here. I can just leave. I can go to my car and leave."

So he just went on by and started going to his car, and then A.J. ran up to his car -- when he got in his car and closed the door, A.J. ran up to his car and started pounding on the hood, and was like, "You gonna kill me, huh? You gonna kill me? Did you bring your gun to kill me, huh," and beating on the hood. And then that's when Stephan got back out of the car, and when he got back out of the car, he hit A.J. a couple times with the back of the gun aside his head.

Q He pistol-whipped him?

A Yeah.

Q How many times did he pistol-whip him?

A Twice. He hit him the first time, and then went bop, and just staggered back and hit the ground, and he got up and he was like wobbly, wobbling around. And he got up, and he came back, started wobbling up towards Stephan, and he hit him again.

He hit him so hard the second time it made a loud pow, and then the gun flew out of his hand, and flew by his car tire. And Randy Moss

picked the gun up, and held it or whatever, and then A.J. got up off the ground, he was staggering around again. And this time Stephan didn't have the gun, so he took to his fist, and he like just wap, wap, wap, wap, wap. And --

Q Is that --

A -- then he --

Q -- A.J. on the ground or he's standing up during that?

A A.J. was like, you know, standing up, staggering around. He beat him across the head about five times, and A.J. hit the ground, and then he got up and his whole pants fell down, and he didn't have on drawers, anything under there. And that's when Art and then grabbed him and was trying to pull his pants up.

Stephan --

Q Did --

A -- grabs his gun from Randy Moss and jumped in the car, and started to drive away. And as he was driving back up, the car was coming in, and so he like --

Q Would it help to see a picture or a map of what you're gonna talk about? If I show you State's Exhibit 9, would this help you describe

what you're seeing?

Can we set that up there? And I'm sorry, go ahead.

A And so Stephan started driving out of the lane, which is not that wide, it's only like really wide enough for -- when you get to the little turn.

Q Is this the map?

A Oh, yeah, right here, when you get to that little turn to go out, only one car can really come in. So Stephan mashed, you know, his brakes so that the other car could come in. And when he hit his brakes, A.J. had ran up behind the car, and he was hitting on the side of the car.

And he was like, "No, you ain't just gonna do that to me, mother fucker, get out. You gonna kill me?" And then that's when the door cracked open about this much, and the shot said, pow, and then A.J. just stopped for a second and he dropped.

Q And I'm gonna show you State's Exhibit 50. Will that assist your testimony in helping us understand where A.J. was banging?

A Yeah. Yeah.

MS. MOLINA: At this time State wishes to publish State's Exhibit 50 for demonstrative purposes.

MR. LEE: No objection.

THE COURT: Admitted without objection.

(State's Exhibit 50 was published without objection.)

BY MS. MOLINA:

Q Okay, now I'm going to show you State's Exhibit 50. Where was A.J. banging on the car?

A When he ran to the car side, he went right here, boom, boom, boom, boom, boom. And he got like right here, and then the car door opened a crack, and pow, was a little flash of light, and the car door like closed simultaneously with the gas hitting and then speeding.

Q Okay. Did -- so you could see A.J.'s hands pounding on the car?

A You could hear it.

Q Okay.

A You could see where he was at running.

Q Okay.

A You know, because like I said he -- A.J. took off right to a car, and so Stephan had

to wait there until Rod's car turned in. So he was sitting there about may I'd say 6 to 8 seconds.

Q All right.

A As Rod's car turned in, and that's when A.J. ran up, and he started pounding right here, boom, boom, boom, "You gonna kill me, you gonna kill me, kill me." And he got up to about right here and the door opened.

Q And was the car moving at that point?

A The car was moving like very, very slow.

Q Okay.

A And just pow and took off.

Q Do you know why Rod was there?

A He was probably coming to the car party too, he plays cards.

Q Okay.

MS. MOLINA: Okay, you can go back on.

BY MS. MOLINA:

Q When A.J.'s pants fell down, did you see a gun?

A All you saw was balls and a bat and his butt.

Q Did you ever see him with a weapon that

night?

A Never. You never see him with a gun. Because if he saw -- even when he see other people with a gun, he'd say, "Man, get that shit away from me, I don't play with -- I don't play with them guns, I don't do guns, that's for bitches." Excuse me, but that's what he would say.

Q So what happened after the shot? What did you do next?

A After the shot -- well, after the shot, I kinda like paused, and then combat medicine kind of kicked in, and I just took off, and I ran up to him, and he was like, "I'm dead.

He killed A.J., man, he killed me." I said, "You ain't dead man, you're all right." And I just lift up his shirt, and I looked for the entrance wound, which was about maybe an inch or so under his nipple, and it was on this side under his right nipple.

And then I put my hand under there and felt and found the exit wound in his back. And I just -- people were just peeling out, and I was just yelling, "Anybody got some plastic, some plastic bag," so I could stuff, you know, the

wound, and a towel.

I just kept yelling, "I need some plastic bags and I need a towel." And that's when he was driving out, he was like, "Hey, hey, here, take this," and he gave me a plastic bag, and I started stuffing it in A.J. And Pumpkin came running with another one.

I started putting it in his back, and Alexis ran to go get a towel, and she came back with the towel, and I was on the ground with A.J. He just, you know, he was like, "Oh, man, man, A.J. dead, man, he killed A.J. I'm dead, man."

I was like, "You ain't dead, man, you ain't dead, you're gonna be all right. Like just stay with me, man. You're okay, you're gonna be all right." And I was like, "You know what's your name?" He's like, "Anthony Rivers, Jr."

I was like, "Where do you live, man?" And he would say his address. I was like, "What's your daddy's name? You know what your momma's name? Where were you born," you know, whatever, to keep him talking and stuff.

So he was, you know, talking and answering me. And then he just stopped. He was like,

"Man, Banger, you gonna kill me?" I said, "No." And he grabbed my arm, and he flung me about six feet away from him, and he got up on his hands and his knees, and he started crawling around.

He's like, "Oh, man, he killed A.J., he killed A.J., man, he killed A.J." And he started -- and I was like, "A.J., man, you've got to keep still." So I went back to him, and I was like, "Man, you've got to keep still," and he just started pushing me off. He's like, "He killed A.J., man," he's like, "you gonna kill me?" And Art was like, "No," and he's like, "Alexis, Alexis, you gonna kill me?" Alexis said, "No."

And he was like, "Pumpkin, man, Pumpkin you gonna kill me?" Pumpkin's like, "Nobody's gonna kill you, A.J." So he got back up on his hands and knees again, while I was trying to hold my hands in his wound.

He got back on his hands and knees and started to try to crawl around, and I'm like, "Man, A.J., you've got to be still. You've got to keep still, man, because you're gonna make things worse, if you don't keep still." He was like, "No."

And then all of a sudden, he laid down for a second, and then he just screamed out and was like, "Ah," like he was almost crying, and I was like, "Are you all right?"

And that's when he was like, "It hurt." Sorry. "It just like hurt." And then he was kind of calm for just a little while, and then -- 'cause I had -- after Alexis had brought me the towel, I was like, "Please somebody call -- did somebody call 911?"

And so at that time she was already calling 91 -- had called 911, so by this time we heard the sirens coming. So we saw the lights come in, I was like, "Dang, that's the police, that's not even an ambulance."

So it was one of the officers who was here today, he was the only one who had come back first, and when he got out, he was just like, "So what's going on?"

And I was like, "He's shot, we need an ambulance. Can you call for an ambulance?"

So he just came over, and when I said that A.J. like tried to get up again, and he got up, and I was like, "A.J., keep still, man," I'm holding him, and then that's when the officer

came over and said, "Hey, she's trying to help you. You don't want her to help you? You've got to stay still, okay?"

And that's when A.J. got real calm, and he was like, "Yes, sir." And he kinda like rolled to the side a couple more times, and then he just laid there, and let us, you know, compress his wounds.

And then the ambulance pulled up, and the officer, you know, he had went to his car to get something, or I don't know if he went to talk to them, or whatever, but he left me there, and I was just holding it, I was like, "A.J., you're gonna be all right, you're gonna be all right."

And the ambulance came over, and he was like, "Okay, we've got it from here, thank you." I moved to the side, and the last thing I heard from A.J., he said, "Banger, thank you."

And I just walked off and went and sat on Art and Alexis' step, and I wanted to go just leave, and then the officer said, "No," and they put the yellow tape around the vehicles, so we couldn't leave.

And I don't know, things were just emotional. I was crying and whatever, so I just

started to walk down the road, and -- well, we walked to whatever that trailer is, Art's cousin's trailer, Alexis and them -- we walked around that way. And now his cousin -- he said, "You know, if you'all need a ride somewhere, I'll give you'all a ride," so he took us home.

Q And A.J., in your opinion, never made it to a position to open the car door?

A I couldn't see that, so I can't --

Q Okay.

A -- give an opinion on that.

Q But he was banging on it?

A Yeah.

Q And Stephan opened the door and shot him?

A I couldn't tell you if Stephan opened it, I just know that the door opened like about that much, and the -- it was a pow and a flash of light, and A.J. just stopped.

Q Did -- during the physical fight between Stephan and A.J., did A.J. ever hit Stephan?

A No.

Q Did Stephan win that fight?

A By the time it was over.

MS. MOLINA: The Court's indulgence.

THE COURT: All right.

BY MS. MOLINA:

Q I have no further questions, please answer any that Mr. Lee has.

THE COURT: Cross-examination, Mr. Lee?

**

CROSS-EXAMINATION

BY MR. LEE:

Q Ms. Robinson, prior to coming in here today --

A Yes, sir.

Q -- weren't you hanging out in the room across the way with Pumpkin?

A Yeah, and the other officers, yeah.

Q The other officers? Did you talk about the case?

A No.

Q All right.

A The only thing I --

Q You'all are here for a murder trial, and you're in the same room for the same reason, and you say you didn't talk about the case at all?

A All I said was, "I think this is just

sad. I don't want our family to be split, and all I can do is tell the truth. I don't want nobody to hate me, or anything like that --

Q I understand.

A -- that's all I come to do is just tell the truth," that's what I said. But as far as getting into talking about the case or something --

Q Okay.

A -- no.

Q All right. And you said you played basketball with Stephan?

A Yes, sir.

Q You're both kinda tall, right?

A Huh?

Q You're both kinda tall?

A Yeah.

Q Pretty good games together? I mean --

A You know --

Q -- they call you Banger.

A Huh?

Q They call you Banger from basketball, right?

A Yeah.

Q Okay. And before -- when's the last

time you played basketball with him? When's the last time you played basketball with Stephan? Right before this happened?

A No. I think we didn't actually even play together once since this has happened, probably about a year ago may.

Q Okay. All right, is he a good basketball player?

A Yeah.

Q Are you?

A Yeah.

Q You'all go pretty good on the court?

A Yeah, we have a pretty good name. I think, as matter of fact, the last time we played we was on the same team.

Q Okay, all right. You also testified that you are a 100 percent disabled Army vet?

A Yes.

Q So you're getting a check from the government for being disabled, and you can play basketball?

A Yeah.

Q Okay. So was your disability not physical? Was it mental?

A I have a bipolar disorder.

Q Okay.

A And then I also have -- before I fell and ruptured my ACL joint in 2008 on a trip in Hawaii.

Q Okay. Is any of the disability related to memory?

A No.

Q But it isn't any type of physical disability, it's bipolar?

A Yeah, I have both, physical and emotional mental disability.

Q And the first time -- well, let's back up, you said at the scene when he kind of moved around, he jumped.

The cop showed up -- you're sitting on the porch of the trailer when the cop showed up?

A No, I'm sitting on the ground holding -- my hands are in A.J.'s chest and --

Q But after that, after that, after that.

A Well, after that the cop shows up, and then he and I are both on A.J., and that's when he tells A.J., you know --

Q But after EMS took over the medical care, where did you go then?

A Oh, once the EMS came --

Q Uh-huh.

A -- I went and I sat on Art and Alexis' step.

Q Okay, that's what I was talking about, so you're sitting on the steps. And, obviously, they've got police tape, so you can't get out of there can you? You can't drive out, right?

A Yeah, I can't drive out and leave --

Q Okay.

A -- take my car.

Q But you want to leave, but the cop says you can't leave, right?

A No. I hadn't even spoken to the cops at that time. I was sitting on A.J. -- I mean Alexis and Art's trailer step. The cops had never spoken to me, other than the initial cop that he and I were compressing A.J.'s wounds together.

At that time, that was the only officer who had spoken to me.

Q Okay, well, I'm just referring to my nots. You testified you wanted to leave, but the cops said, "No," 'cause you couldn't leave.

A No cop had ever talked to me -- had ever spoke to me, other than the police officer

who initially --

Q Okay.

A -- came and held A.J.'s wounds with me.

Q But there's a bunch of cops there, right, the crime scene guys --

A Yeah.

Q -- there was the detectives --

A There were --

Q -- okay.

A Well, I didn't see all of them. I saw maybe two or three other police cars came up.

Q Okay.

A And they were still about maybe 4 or 5 other people were sitting there on the G shed step.

Q Uh-huh, okay.

A And they spoke to them, and they were going back and forth to the road, to where the cars were, speaking to each other.

I was sitting on Art and Alexis' step for a minute crying, and then the only thing I did was go in the bath -- use her bathroom.

Q Okay, but you -- so you said you walked next door --

A Yeah.

Q -- and got a ride home?

A Yeah, I walked right around from Art's trailer, and that's as -- he has a cousin or a whoever, who has another trailer that's right here from his --

Q Uh-huh.

A -- and I walked there -- walked sort of around. I was just gonna walk down the road, you know.

Q But you couldn't get out any other way, due to the crime scene tape and your car that way it was sitting?

A Yeah, all of the police cars were all the way up the drive.

Q You kinda snuck around the other way, and they offered you a ride, and you were just gonna walk up?

A Yeah, I was just gonna walk -- I was gonna walk probably to the alley and see if somebody was over there, because, you know, people who own the alley knows.

So he was my cousin, Renee Brown's mother. So I was gonna walk and go get me a ride home, try to clear my head. I couldn't, you know, this is something -- I couldn't fathom what

happened.

These are two people I care about, who I spend time with. I don't have ill-will or feelings against either one of them, and then they're family, so I mean --

Q I get it.

A I just --

Q So you wanted to clear your head --

A Yeah, correct, yeah, like I couldn't believe this was -- this happened.

Q You wanted to clear your head and think about it?

A Yeah, and probably go smoke a joint, and I can't smoke in front of the police, if I may be very open and honest.

Q Okay, but you did promise to tell the truth today.

A And only.

Q Okay. Had you been smoking any joints that night?

A Well, at the time, no.

Q Okay.

A I didn't have no time to smoke a joint that night.

Q Too busy setting up the party?

A Yeah, but I went from the wedding, setting up to everything going down.

Q Okay.

A And I think I may have rolled one but didn't smoke it.

Q And so then this happened on the night of the 29th of May, and it's the late Friday night, Saturday morning, and Memorial Day was that Monday, right, the 31st?

A I guess so.

Q Does that make sense?

A I can't even tell what date this thing took place.

Q Yeah.

A No.

Q Well, that night you left, you didn't tell anybody anything, you didn't talk to any law enforcement, even though a lot of law enforcement, but you didn't talk to anybody that night, did you?

A No.

Q Okay. And so the next day, the 30th, obviously, I guess you made it home at some point?

A I would -- I made it home that night.

Q That night, okay. Did you actually get to smoke a few joints, or you --

A Yeah, and I couldn't even get high, and I don't even drink like that, I drank liquor, and I couldn't get drunk.

I went home, I couldn't go to sleep. I had the smell of blood in me. I must have washed my hands about 50 times. I must have took about three showers. I still couldn't go to sleep. I couldn't get the smell of death off of my hands. I don't think I slept for probably about three weeks.

Q Really?

A Yeah.

Q Okay.

A Not a good solid sleep.

Q So the next day is Saturday, the 30th, are you at home drinking, smoking, trying to take a shower, trying to get over this still the next day, since you couldn't sleep?

A On the next day?

Q Yeah, the 30th.

A I -- like I said, I don't even really drink like that, so I drank -- like I have a little mixed drink or something on a social --

Q Uh-huh.

A -- as far as social, but I just smoke marijuana, and so --

Q Okay, but you hung out -- I'm trying to get --

A Oh, well, Saturday I didn't even have time to smoke any, because on Saturday morning the detective guy came to my house the next -- well, the next morning, that was Saturday, he woke me up.

Q So he came to your house on the 2nd --

A Whatever day --

Q -- which is a Wednesday. So I'm asking about Saturday.

You didn't have time to smoke a joint all-day Saturday?

A The next morning somebody came to my house also. I met with the detective on three different occasions, twice at my house.

Q This guy right here?

A Was it you?

Q You can't ask a question. Are you saying --

A I know once he came, and it was two of them --

Q Okay.

A -- together.

Q All right, well, this is important. You're saying --

A And I don't know if it was the next day or not, to be honest, this has been like, what, 3 or 4 years ago.

Q Okay.

A So like I'm -- so like I told you before, I ain't gonna be able to remember no exact dates and no exact times, but I can remember exactly what I did, and what I said, and what I saw.

Q Well, if I told you that you didn't talk to the officer until June 2nd, which is Wednesday --

A Uh-huh.

Q -- would that make sense?

A Okay.

Q Okay, so there's four days. So during these four days -- so you didn't sleep?

A Yeah, but like I said, I didn't have no good solid sleep for like 3 weeks.

Q You were trying to get drunk, but couldn't?

A No, I couldn't. I wasn't trying to get drunk, I was at home, because I don't really drink like that, but that -- like I said, that night that it happened afterwards, yeah --

Q Okay.

A -- I was trying to get drunk or high or something just to get this thing out of me, because I didn't want to feel it, I didn't want to be hurting for people I care about.

Q Sure.

A And it was a hurt going both ways.

Q There's certain things like adrenaline that will cause your mind to race and your heart to race, and that sort of thing, right?

Do you know what those -- you're in medical, you know that, right? Stimulants.

A I'm not a medic, but --

Q Well, you -- I'm sorry, you had some medical experience. You said something --

A I had combat training, yeah.

Q Combat medical training, but you know about stimulants, things that make you --

A Yes.

Q -- get amped up?

A Yeah.

Q Okay. And it's also called depressants, alcohol and stuff like that, right? So they can affect each other, can they not? For example, if you're overstimulated, with a stimulant, you can drink a bunch of alcohol as a depressant, and you're still up here, right?

MS. MOLINA: I would object.

BY WITNESS:

A I don't know, because I'm not a doctor, so I --

THE COURT: Hold on, hold one just one second. I've got an objection here.

MR. LEE: What's the objection?

MS. MOLINA: The objection she's not an expert like she just said, but she can answer the question.

BY MR. LEE:

Q You said you couldn't sleep for 3 weeks.

A Uh-huh.

Q You said you couldn't get drunk.

A I said I couldn't have a solid sleep for 3 weeks. I had these things in my mind. I'm watching my friend die. I'm watching his cousin kill him. I'm watching all these things

play over and over in my mind again --

Q Okay.

A -- and again. Yeah.

Q Okay.

A Have you ever had any of your friends killed in front of you? Sleep on that and tell me how it feels.

Q During the 4 or 5 days that you did not speak to law enforcement, did you talk to -- don't tell me what you said, but did you talk to Pumpkin about this?

A Pumpkin -- I talked to Pumpkin that night.

Q So you'all talked about it, right?

A She experienced the same thing, so I felt like this is somebody who would know what I'm going through, because they were there too, so, yeah, I'm telling them all the things I'm going through, how I can't sleep, how I can't get the smell of blood off my hands, how I think I need to, you know, go to the doctor, and see if they can give me something to help me sleep, because I can't -- I couldn't stop thinking about it.

Q Sure. But the people that you never

talk to during this four or five days was law enforcement, correct?

The first time you talked to law enforcement is because Byrd came to your house and found you, right?

A The first time I spoke to somebody, somebody came to my house.

Q And do you remember him saying, "Banger, you be a hard woman to find?"

A Now we --

Q Do you remember that?

A That was the first thing he said after --

Q Yes.

A -- after I opened the door, and he said he was looking for Natasha Robinson.

Q Yeah.

A And I said, "That's me." He said, "They call you Banger?" And I said, "Yeah." And he said, "Banger, you're a hard woman to find."

Q Right.

A Said, "You know, I've been looking for you for the last few days."

Q Uh-huh.

A And he said, "Where you been?" And I said, "In this house."

Q All right.

A Yeah.

Q All right, so let's back up a little bit. Why is it called a G shed? What does G stand, do you know?

A There's a letter G that's whoever I guess the people is that make the shed, there's a --

Q Okay.

A -- G, a wooden black G.

Q Okay. And that place was like a perfect place for what you'all were doing, watching basketball, and playing cards, and stuff like that? It's like finished on the inside, and there was a TV, and it has electricity, and there's a place to put the booze, put the food, and all that kind of stuff, right?

A Yeah.

Q Okay. So let's talk about these card nights -- card games. The way that it operates is, somebody is the host, right, or hostess, right?

A Yeah.

Q And what the host or hostess does is pays -- and when you use the G shed, the host or hostess pays Art Washington to use the shed, right, to use the shed, right?

A Yeah.

Q Okay And then the host or hostess kind of does the -- has some sort of chicken wings, or whatever, potato chips, beer, you said liquor, water, all that kind of stuff, right?

A Yeah.

Q So the host does that and foots the bill for that, right?

A Yeah.

Q But the host also gets the benefit of getting money every time the pot is raked, or somebody wins a pot, part of it goes to the house, right?

A Well, yeah.

Q A percentage of it.

A It depends on what table they have. If you had like the $5 table, it's like a cut.

Q Okay.

A Every other hand, or every two hands, but I know the $10 table they cut every hand.

Q Every hand whoever wins the hand rakes the pot, and then a portion of that goes to the host or hostess, right?

A To the house, yes.

Q Okay. Well, you said the house, the house is the person --

A Yeah.

Q -- hosting, and not Art Washington, right?

A Yeah.

Q Okay. So --

A Yeah, the house is the host.

Q The house is the host, okay. So the more money that's gambled and won percentage-wise, the more the house gets, right?

A Yeah.

Q Okay. So it's often a pretty good deal for the -- to host one of those things, even though you've got to put some money down, if it's a big night with big pots, the house can walk away with some decent money, right?

A Yeah, but I don't know about eight people how big the pot has been, because -- maybe 600 or 800 is --

Q An average night?

A Like, no, that's like really good.
Q Okay.
A Like an average night you get about 500, $400, you could.
Q Okay. So the house --
A A lot of people might come, and also just buy sodas and beers. Some people might just want to come and buy a plate, some people just come around and just hang out outside while others play card.
Q Noncard players can still go, but they have to purchase food and drinks and stuff like that, right?
A Yeah.
Q Okay. How much does a beer cost on an average night?
A $2.
Q So they're marked up a little bit to make some money off of that, right?
A Yeah, like $2.
Q Okay. And Stephan Polite went to several of these parties that you've been at, right?
A This was -- as far as the --
Q Yeah, he'd --

A -- circled.

Q -- been there before, yeah.

A He's been to a lot of parties, he comes.

Q Okay.

A He's been to a couple of the parties before.

Q Is it safe to say that Stephan's a pretty good card player?

A I guess so.

Q You guess so? But he plays a lot, and he wins quite a bit, doesn't he?

A I know he -- I would say he's good at -- which one, poker?

Q Uh-huh.

A I can't tell you how good he plays, because I am the best.

Q Okay.

A But --

Q So you're good at it?

A Yeah.

Q Okay.

A I think everybody who pretty much plays are pretty good though.

Q Okay, but you're good at cards. And

one of the ways that you can win sometimes if you're a good card player, is you can bluff people, can't you?

A No, that --

Q You can make them think --

A -- you're thinking about poker.

Q -- you've got a pretty good hand? Huh?

A I think you're thinking about poker. It's pretty much your cards show theirselves (sic), so there's no bluffing.

Q But you've got to know when to hold them and when to fold them?

A You must have never played. You match 3 cards, or get 3 in a row, or --

Q Well, if the cards are the cards --

A -- three of a kind.

Q -- and you turn them over, how can you be good at something that is 100 percent luck?

A I mean it ain't no bluff though. The card throws out, you've got 2 queens in your hand, a queen comes out, you take that queen, now you've got your 3 pairs of queens.

If you have a 3 and a 4 in your hand and a 5 comes out, okay, now I've got a 3, 4 and 5,

it's like really nothing.

Q Well, how -- I mean are you good at the lottery? I mean how are you good at a game of chance?

A Blessing, I guess.

Q Blessing?

A Uh-huh.

Q Okay.

A Because I can't tell you how people are good at the lottery. If they play at the right time or something, I don't know.

Q If you figure it out, let me know.

A You figure it out, give me a 911 and 411 on that too.

Q Okay.

A Yes.

Q All right, so the long and the short of it though is, you're the house, you want a lot of people there, and you want to get a bunch of money, because you give that money that won, and you get a piece of it, right?

A Not necessarily, because our circle starts with 8 people, and I think we made more with just 8 solid people than having a bunch of people, but most -- when you have a bunch of

people, a lot of times some people get in and they only play 2 hands and then they're out. Some people get in, they only play 3 hands and then they're out, but if you've got a good straight, hard, solid 5, you can go for 5 hours with 5 people, and do better with those straight solid 5 people than you can with 15.

Q Stephan's one of those good solid players, right?

A Like I said, that was the second game that happened.

Q When he goes to play, he brings the money, he puts the money in and he gambles, right?

A But -- yeah, because I know him -- like I said, my cousin Zech's house --

Q Uh-huh.

A -- he was always, you know, part of that circle, but when I was there, I was always the cook.

Q Uh-huh.

A And so, yeah, I know he was very good at playing poker there.

Q And one reason he's good at it is because he doesn't drink, right?

A He don't drink?
Q Alcohol?
A I didn't know that.
Q He doesn't.
A That's new.
Q Okay.
A He must have just had quit.
Q Okay.
A Yeah.
Q All right, so let's got to the card game, card night. People are there, you've described Stephan being in a good mood, joking. Remember you told Byrd that he was joking about your African garb, and doing some kind of little thing like that, and he was in a great mood?
A Yeah, he was in a good mood, everybody was.
Q Okay.
A Yes.
Q And he was kind of -- he's not kidding, but he was talking about the African stuff that you had -- that you were wearing, right?
A Okay.
Q Huh?
A Okay.

Q Okay? Is that yes, no?

A No, that's a okay.

Q Okay, okay.

A Because I already told you, I don't remember whether I was there still in the African thing --

Q All right.

A -- or --

Q Well, you told Byrd specifically that you had your African garb that night, when you talked to him; do you remember that?

A That was 4 years ago, sir, I don't know what clothes I had on, on that day.

Let me reiterate and repeat it and do it again, so you can understand, I thought I had said that in the beginning.

Q My question was, did you tell Byrd that on June --

A I don't know what I had on that night, and this was 4 years ago, sir, so I'm like, again, I cannot tell you what I had on that night. So if I told him that's what I had on, and he has it written down, then that's what it is, but like I said, that was 4 years ago, I cannot tell you exactly what I had on that

night.

And I'm not even gonna sit here and lie or play around with it.

Q Okay.

A I won't play games with you, sir. I'm just being straightforward and --

Q I'm sorry?

A I said I'm just gonna be straightforward, and I'm not even gonna try to play around with you, I'm telling you straight up.

Q Okay. And you said that Stephan's there, he's in a good mood and everything was fine.

A Yeah.

Q And then Anthony Rivers shows up, right?

A Uh-huh.

Q And then things change, the mood, the atmosphere, what was going on changed when Anthony Rivers got there, right; is that safe to say? Would you agree with that?

A His mood was different.

Q Okay, his was different than anybody else's, right?

A Yeah.

Q And I think you said he was screaming bloody mercy up at the sky?

A Yeah, that was my first --

Q To no one in particular.

A -- picture of him in the yard screaming.

Q Okay, and do you know why he was screaming?

A Nope.

Q Okay. Have you ever seen him do that before?

A Never.

Q So this night was different for him, wasn't it? As with regards to him, it was different, wasn't it?

A That was the first time I'd ever seen him screaming.

Q Okay.

A I don't know how different it was, other than I didn't, you know, all of the events that took place after that, I would have never though it would --

Q And then you said in your testimony that there's some people that were around there

said, "Oh, oh, there's gonna be trouble."

A The people who were coming in the door as he got dropped off, they were like, "Oh, Lord, there's gonna be some trouble tonight." And I was just like, "No, he's probably just a little drunk," because I -- well, I know he's not confrontational, he's not a very aggressive person, he's not disrespectful, or anything like that. He's a person that will do anything to help you.

Q I think you said in the past that he doesn't even curse at women, he's respectful.

A He is respectful. I don't know if I've ever said he's never cursed at women --

Q Okay.

A -- but I know he's a very respectful guy. I couldn't tell you if he do or don't curse at women, but I know he cursed that night, so I don't --

Q And has he ever cursed at you before like that?

A Well, like, give me my damn money.

Q Has he ever called you named, like bad names? Long and short, he was acting a lot different this night than the A.J. you know,

right?

A Everything was different that night from anything I know.

Q Okay.

A Everybody in that moment was different.

Q Yes, ma'am.

A It wasn't the same A.J., it wasn't the same Stephan, neither of them was the same by the end of that night.

Q All right. And several people were asking A.J., "Hey, are you all right?" Akeem asked him that.

He asked him that a couple times, his best friend, Art, asked him that, everybody there said, "Hey, man, are you all right? What's going on," right?

A "Like what the hell is wrong with you?" Pumpkin asked him if he was all right, and asked him, you know, what's going on?

Q What did he say to her? He said something you'd never heard before to her, right?

A Uh-huh.

Q What?

A "Ain't talkin' to you, Pumpkin."

COURT REPORTER: I'm sorry, say that again?
BY WITNESS:
A "Ain't nobody talking to you, Pumpkin."
Q But he's throwing the B word and a few things as well, was he not?
A He -- yeah, that he had called Alexis a B.
Q Right. Have you ever heard him call Alexis a B?
A No, because Alexis and Art always look out for him.
Q Yeah. She's looking after him, right? They're tight, right? Have you ever heard, before this night, have you ever seen A.J. saying, "Fuck that, kill me, smoke me, kill me;" have you ever heard him doing that?
A I never heard nobody say nothing --
Q Okay.
A -- nobody ever doing that --
Q Okay.
A -- so, no, I never heard him do that before. Because like I said, I believe in the spiritual world.
Q Right.
A And the demons are still all here.

Q And you testified you believed in the spiritual world, and that was a demon working.

A I swear it was a demon.

Q All right.

A Because I don't think that A.J. would behave that way, and I don't think that Stephan would, you know, don't behave that way either.

Q Okay. And is it safe to say that demons are usually bad, right?

A I ain't never heard of a good one.

Q Me either, they're dangerous, bad, whatever you want to call it, right?

A Yeah.

Q Okay.

A And they it played on both of them.

Q So you think that some spiritual demon came down and got ahold of both of them?

A I don't know about came down.

Q Came --

A Demons don't come down.

Q Yeah.

A They walk around amongst us every day. They're here, they move to and fro, in and out of people who leave themselves open to them. And I know plenty of people don't believe in God

and the presence of demons and angels, and I know I can see color. I can see people's aura's colors right now. You might not believe me, but it's like --

Q Do you remember telling --

A -- everyone here is --

Q I'm sorry.

A -- yellow, whose gold. I see people with white light around their heads. I see purple around their hands. So, you know, I see colors, auras.

Q Do you remember telling Sergeant Byrd, "The way it was, A.J. wasn't never gonna stop," and then saying, "I don't know, I mean I don't even know what the hell A was on, man," on that way.

A Can you repeat that?

Q "He don't be acting like that. I've seen him get into an argument with him before, he's never called me a bitch, never used a curse word. He was the possessed dude, man.

Do you remember telling him that?

A I do remember --

Q And then that --

A -- telling him about the same thing

about the demons that I felt like --

Q That's exactly right.

A Now I didn't say possessed.

Q Yeah.

A But, yeah, I did feel like that there was a demon there, and it moved from A.J., and it moved to Stephan, and it moved to A.J., and it moved to Stephan, then it moved to A.J., and it moved to Stephan and it played them. Like I said, people may not believe it, but I'm telling you.

Q And your testimony today, the one thing that you didn't mention today that you said before is, Alexis said something about, "You're scaring my kids," she said that to A.J., right?

A Yeah.

Q "You're scaring my kids."

A Alexis said that to A.J.

Q Okay. And then Art says, "Man, you've got to go home," because A.J. was scaring her kids the way he was acting, right?

A Yeah.

Q Scaring them, okay? So Art says, "You've got to go," he still wouldn't go. What you left out, I believe, is Art went and got a

gun; did he not?

MS. MOLINA: Objection.

THE COURT: State the objection.

MS. MOLINA: I don't think there's been any testimony about that, and she said what she knew.

MR. LEE: it's a prior inconsistent statement that she said -- I'm asking if she said it. If she denies it, I can get her to say that she said it.

THE COURT: I'll overrule the objection, go ahead.

BY MR. LEE:

Q So when it happened, Art went and got a gun, right?

A Yes, Art got a gun and he brought it over there to the shed.

Q Okay, brought it to the shed, all right. So is that a shotgun?

A It was a pretty big gun, and I didn't leave that out on purpose. I didn't even think, I was just answering the questions asked of me, and I didn't --

Q So that's in the shed, the gun was left in the shed now? You said he took it to the

shed?

A Took it to the shed, and it wasn't just left, somebody was in there with it.

Q Somebody was in there with it?

A Uh-huh.

Q And there's other guns in the shed too, aren't there? Wasn't there a pistol over there by the cooler that you were talking about earlier, that A.J. sat on?

A No.

Q You didn't see that? Okay.

A I didn't. There wasn't any other guns in there.

Q Okay. Well, when Art took it over there, that's where he took it, right?

A Yeah, but Art -- when Art brought that gun over there, it was already crazy, and A.J. was outside, and so --

Q He got a gun because of the way A.J. was acting; did he not?

A He got a gun, because he was telling A.J. he wanted him to go home, and Alexis made -- she's the one that made Art put the gun up.

Q Okay.

A But she was like, "If that's your plan,

you ain't getting no gun after A.J."

Q And A.J. scared the kids the way he was acting?

A Yeah, because he was out there yelling, you know --

Q Right.

A -- and he wouldn't go home, and they were trying to get him to leave.

Q All right, so you told a lot -- you talked a lot about what A.J. was doing, he just wouldn't stop, he's grabbing onto things, he's locking his feet into the ground, he's holding onto doors, he's getting away from people, he's trying to get back into the shed at Stephan, all of that, right?

He kept doing it. How much time are we talking about from when A.J. got there until Stephan's leaving in his car and A.J. get shot?

A What, you want me to guesstimate, because I wasn't timing nothing, no.

Q But it was over an extended period of time, was it not?

A It was an extended period of time, and most of the time was A.J. outside, and people talking to him trying, you know, to get him to

calm down and go home.

Q And people keeping Stephan in the shed, right?

A No, we just asked him to please stay in there while they calmed down A.J. and get him to leave --

Q And --

A -- so that way there won't be an altercation.

Q And meanwhile A.J.'s out there screaming at him, trying to get back up into the shed, trying to yell at him through the windows, it's just going on and on and on and on, right?

A Well, after he had made that run in the shed, Stephan pulled the gun out and everybody scattered, like he didn't try to get back in the shed after that.

Q Okay.

A He pretty much was outside just --

Q Right.

A -- arguing with us, and --

Q Yeah.

A -- telling us about the money he so he wouldn't have to leave, and then yelling and he -- and every now and again like I said, he'd

yell, "You gonna kill me motherfucker, you gonna kill me? Come kill me."

Q Being physically restrained?

A Huh?

Q Being physically restrained at times?

A Well, no, after that when we closed the door, no -- nobody had their hand on A.J., like holding him back, or anything like that.

We was just talking to him, and he just was saying, you know, he wasn't gonna leave, and that's when he started to flipping the script about, you know, "You owe me money. Don't you owe me money?

And Banger you owe me money too." You know, just stuff he wouldn't leave.

Q Talking about stuff that wasn't true, was irrational, didn't make sense?

A No, it was true, I had -- and I gave him the $10, and then Art owed him $20 and --

Q Okay.

A -- Art was trying to give him the $20, so he wasn't just --

Q But he was upset --

A -- I mean --

Q -- even though you were giving him the

money, right?

A I think that he -- in reality he didn't want to leave and go home by himself. And a lot of us know, you know, his liquored conditions, and he wasn't proud of his living conditions.

You know, he's a very humble guy, and like I said, he did a lot to help people out.

He'd do what he could, he did odd jobs, took on odd jobs, did whatever he can to make money, and --

Q But people did a lot for him, did they not?

A Yeah, people --

Q Including Stephan.

A Well, I don't know. I know Alexis --

Q You don't know?

A Yeah, I can't attest -- I can't say he did or didn't do. I know Alexis and Art helped him out a lot, and I know that my cousin helped Renee's momma, she used to, like, wash his clothes and stuff like that.

Q Hey, I don't want to force you to guess something, but aren't we talking a period of a couple, few hours between when he got there, and when, ultimately, Stephan left and A.J. --

A By the time A.J. got there to the time of the end of it? It probably was, I don't know.

Q Just like --

A This thing seemed like, I don't know, because in my mind --

Q A while?

A In my mind it just --

Q Okay.

A -- played on forever and ever, so --

Q You talked about Sherard Johnson was coming the other way where it narrows down, and Stephan had to slow down, or maybe even stop. Sherard Johnson -- did you know that he was coming to pick up A.J.?

A No, I didn't.

Q Did you know that Stephan is the one that called him to come pick up A.J.?

A No, I wasn't --

Q Does that surprise you that Stephan would have done that, trying to help out A.J. and get him out of there?

A I mean I don't know what to think. I didn't know Rod was coming at all, so I didn't know he was called. I mean that wasn't -- that

would be beyond me. I don't --

Q At no point, from when he got there to when he was shot did any of these people that care so much about him, that, you know, never seen him like this, did anybody ever think about calling -- well, do you -- well, did you ever call law enforcement, and say, "Hey, we've got somebody out of control here, the demons are in him, he won't stop, he won't stop, let's call the cops?"

A I never heard of anybody make a demon call to the police.

Q How about a disorderly conduct?

A I would say there's a demon --

Q How about a threat?

A -- here, I never -- I mean they would -- they would --

Q How about explaining to me --

A -- have probably came and locked me up, if I had called the cops and said, "That there's a demon provoking a disturbance." They would have came and said, "Lock her up, because she hasn't --

Q Or they --

COURT REPORTER: One at a time. One at

a time.

BY WITNESS:

A He asked me a question, so I was answering it, but then he started talking in the middle of the question he asked me, so --

Q So, are you finished with your answer now?

A I guess I'm finished now, because it was cut off, so if you want to --

Q Is there anything that you want to say? I didn't mean to cut you off your answering --

A No, I guess not.

Q -- the question.

A You asked if I had called the cops to tell them, "You know, there was a demon there, but I've never seen anything where people come out to arrest a demon, but I'm pretty sure they would have took me in and called me crazy.

Q Well, they would have come out there and seen the way A.J. was acting, demon or not, strangely, don't you think?

A Being that we were all, basically, family and friends it would be normal for us, especially in my culture, you try to take care of it right there --

Q Right.

A -- calm everything down, try to get people to see eye-to-eye, and shake hands, give them a hug, and go back to, you know, being people.

Q That didn't work --

A. That's how I grew up, that's how we do it in my culture, so --

Q That didn't work this time, did it?

A It did not work.

THE COURT: Mr. Lee, how much longer do you guess for cross-examination?

MR. LEE: 20 minutes, 30.

THE COURT: I'm just trying to figure out lunch.

MR. LEE: Whatever everybody wants to do.

THE COURT: We've got 20 minutes before lunch, or go to lunch?

Anybody have an opinion?

MR. LEE: I'll try to speed it up.

THE COURT: Continue on.

MR. LEE: Understood.

BY MR. LEE:

Q The Solicitor asked you as well, "Did

A.J. make any threats to Stephan Polite," and you said, "I don't know;" is that right?

A That's correct, I didn't remember that.

Q Okay, so it's safe to say you don't know exactly what went on all night every time between Stephan Polite and Anthony Rivers, you don't know?

A No, it's not safe to say.

Q So you do know what went on every time they had any type of interaction or conversation, you're saying that you were there and you can testify to that?

A I can testify to everything that I, myself, saw, did and witnessed point blank and period that is it, and that is all.

Q Okay. And when she asked you, "Did A.J. make any threats to Stephan," your answer was, "I don't remember."

A No, I don't know. Not that I know of was my response exactly, if you'd like the stenographer to read it back, I believe my response was, "Not that I know of."

Q All right. Moving along in the version that you gave to the prosecutor, you said that Stephan finally said, "I'm out of here, I'm

gonna leave," said, "I'm leaving, I'm going home," right?

A Yeah.

Q And when you talked to -- but you say that Stephan got in his car, A.J. started beating on the car, you say Stephan got out of the car, and that's when they got in the fight, right?

A Yes.

Q Okay. Do you remember on June 2nd and June 3rd, talking to Detective Byrd the first time, and Byrd and Duncan the second time, that you used the word beelined, when you said, "That Stephan made a beeline for his car, and that A.J. came up like a football tackle to go after him;" do you remember saying that?

A Stephan went directly to his car. When he came out of that door -- because I stood right there, I said, "Stephan, don't come out," and then he was like, "No, man, I'm -- I ain't gonna stay locked up in here, I'm just gonna leave," and he did.

He went directly to his car, and he opened the door to get in his car, and A.J. charged the car, and he started banging on it immediately,

and Stephan exited the car and pistol-whipped him twice, punched him across the head and face about five times, and picked up -- took his gun from Randy Moss, got in the car and started to leave.

He went up, the minute he tapped the brake A.J. ran up, he started beating on it, on the car, Rod's car came in, the door cracked, popped, speed off, A.J. dropped.

Q The question is, in a previous version of events isn't it true that you told Detective Byrd, "That Stephan made a beeline towards the car, and before he got there, that A.J. almost like a football tackle when after him, before he got to the car;" did you ever say that?

A Everything that Detective Byrd has in that statement is true. Forgive me for not being able to remember every single detail that took place four years ago on this day, but my memory was very fluid, and I'm very honest, and everything that I said and told the detective at that time is exactly what I saw happen and took place.

And, again, let me reiterate, if I cannot remember every single detail as of now, I'm so

glad that he does have what is written because what is written and in that detective's hand is exactly the truth.

And if you leave it to me, I would say use that, please.

Q Your testimony also was that Stephan's leaving, there's 6 to 8 seconds, what's A.J. doing at that point; do you know?

A No. I'm saying -- no, I said 6 to 8 seconds was like probably only the amount of time that he was sitting there as Rod's car --

Q All right.

A -- came in, about 6 to 8 seconds, and that's when A.J. ran up to the car --

Q Okay.

A -- in those 6 to 8 seconds and started pounding on it and yelling again about killing me.

Q And your testimony here today is the door opened up a little bit, and you heard a bang?

A It was a bang and a little flash of like a yellowish light.

Q Okay, and your testimony was that it was somewhere around here?

A No, that's not what I said.
Q Here?
A Up a little higher by the door, in that middle part of that door.
Q That's where from you looking at it --
A The middle part of the door.
Q -- that night, that's how far you think A.J. got to the front --
A No --
Q -- of the car?
A -- in the middle part of the door, not the door?
Q The middle part of this door?
A Yeah.
Q Okay, so right there?
A Yeah, like --
Q About --
A -- from where I could see, because at this time, you know, his back is like this toward us.
Q Okay.
A I'm like here, so I can just see his back is --
Q There's no way --
A -- approaching that car from that

angle. So from where I'm standing, he's at this angle -- type of angle.

Q Okay.

A You guys can see --

Q Sorry.

A -- to me. So I can't tell you exactly.

Q Okay, let's do something, pretend your Stephan and you're driving the car, okay? Your Stephan, I'm A.J. --

A Uh-huh.

Q -- okay? I'm -- tell me where to get, as far as where A.J. was in relation to Stephan, as he's driving the car.

A I can't tell you how --

Q This close?

A -- big that car seat is. I can't tell you, if he got it leaned back, if he's got it sitting up straight, so I can't tell you how close. And I wasn't, like I said, I'm back there, they're at an angle like this.

Q Uh-huh.

A So, typically, I can't tell you, and I can't give you a straightforward honest answer, other than what I told you before.

Q Do you think this is pretty close,

though, where I am?

A Yeah, it's close enough for me to still pull off and still leave you standing right there in the road, yeah.

Q Is it close enough for me to open the door handle?

A I don't know, but I can smash my gas and pull over, pull out and go, because I'm already in a car that's moving.

Q So all you know is the door opened a little bit. You don't know who opened it, and there was a shot.

A I don't know who opened it. I just know it cracked a little --

Q Okay.

A -- and a bright light, a little yellow light came out with a bang.

Q Okay.

A But I know every car has a gas pedal.

Q And you are a poet and storyteller; is that right?

A Yes.

Q That's one of your jobs?

A Yes. I don't call it a job though.

Q Well, do you get paid for it?

A It's my passion and career, a job that you work, it ain't work for me.

Q Do you receive a salary for the compassion that you do for work?

A Yes.

Q All right. You're a professional storyteller?

A I'm a professional poet. The people -- when I do my voice read, because of the way I do it, they labeled me as a storyteller, as a ghost storyteller.

Q Okay.

A I, myself, identify as a poet, always have, always will.

MR. LEE: That was less than 20 minutes, I'm done.

THE COURT: That was less than 20 minutes.

Ladies and gentlemen, let's take a lunch break until 2 o'clock, or do you just have one or two questions?

MS. MOLINA: I have no redirect.

THE COURT: No redirect?

MS. MOLINA: No redirect, Your Honor.

THE COURT: You may step down, ma'am, you're excused.

WITNESS: Thank you, Your Honor.

MR. LEE: No objection to being excused.

THE COURT: 2 o'clock. I'll remind you it's too early to begin discussing the case, don't let anybody talk to you about it the case. See you back at 2 o'clock, ladies and gentlemen.

(Jury exits the courtroom.)

(Lunch recess)

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PROCEEDINGS CONTINUED

THE COURT: Apparently all jurors are present. The State ready for the jury?

MR. LEE: Judge, before we took a break, you had said that we were gonna try to look into the suggestion that the next witness might have been at the back door.

I've spoken with one of the investigators at the Solicitor's Office, and she was crossed off. It seemed like she was holding the door open, because I guess it locks from the inside. He said there were officers over there, and he said it was his understanding that she was hiding what appears to be testimony that's going on.

And I think we're satisfied with that, and we can't prove otherwise, so I just wanted to -- I didn't know at the time, but I just wanted to do that, and I appreciate --

THE COURT: All right.

MR. LEE: -- Solicitor's Office looking into that.

THE COURT: Ready for the jury?

MS. MOLINA: Yes, sir.

THE COURT: The defense ready?

MR. LEE: Yes. Sir.

BAILIFF: Yes, Your Honor.

The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

BAILIFF: The jury's seated, Your Honor.

THE COURT: Welcome back, ladies and gentlemen, and I believe we are ready to proceed with the presentation of the evidence by the State. Solicitor?

MS. MOLINA: Thank you. The State calls Althea Brown.

ALTHEA BROWN,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Is your nickname Pumpkin?

A Yes, ma'am.

Q Why is it Pumpkin?

A It's been Pumpkin since I was little. That's the name my grandma gave me.

Q Do you mind if I call you Pumpkin?

A No, ma'am.

Q Where do you live, generally?

A In St. Helena.

Q In St. Helena?

A Yes, ma'am.

Q Do you know Anthony Rivers, Jr.?

A Yes.

Q How do you know him?

A Our families are.

Q You'all are close?

A All of us are close.

Q Do you know Stephan Polite?

A Yes.

Q How do you know him?

A We're all from the same area.
Q Are you friends with him?
A We all are friends.
Q Do you Stephan Polite in the courtroom?
A Yes, ma'am.
Q Can you identify something he's wearing?
A A brown shirt.
MS. MOLINA: Please let the record reflect the witness has identified the Defendant.
THE COURT: So noted.
BY MS. MOLINA:
Q Okay, and I'm gonna bring you back.
On May 29th, 2021, did you go to 10 Keystone Drive to play cards?
A Yes, ma'am.
Q Can you tell us about that night?
A Well, we usually go around every Friday and Saturday and have a card game, so that particular weekend it was actually my party and Banger's party, but we were all in the shed, the normal people, probably about 9 or 10 of us in the shed.
A.J. came in the shed. He amped everybody up, he patted a couple people's pockets, and him

and -- he patted Stephan's pockets. Stephan -- I guess he didn't get -- but he wasn't aggressive at that point.

He sat in a chair, and he was talking stuff, must talking stuff. We proceeded to get ourselves together to play cards. I can't exactly say what transpired when -- what made Stephan get up to go outside, but he went outside. When he went outside, I said to Natasha, which is Banger, I said to Banger, I says, "Banger, please go outside and make sure Stephan left to go." They went outside, they came back in.

When they came back in, she was like, "Stephan got his gun, but he said he's not gonna do nothing with it." A.J. was sitting in the chair, just talking. Stephan talking with him, they started arguing. Everybody went out of the shed.

Stephan and A.J. started fighting. Stephan hit A.J. across his head a couple of times with the gun. The gun flew out of his hand. I'm not exactly sure who picked up the gun, but the gun flew out of his hand.

A.J. was on the ground, A.J. stumbled up or

whatever. Stephan got to go in his car to pull off. A.J. went behind the car. He didn't get close to the car like close, close, close, he was kind of like, "Did you hit me?" Not saying it. "Maybe you hit me, maybe you pistol-whipped me, if that's what you're doing, we're leaving, did you pistol-whip me?"

Everyone was like, "Come on." Stephan opened the door and shot.

Q Can you show on this car where A.J. was banging?

You saw him banging right there?

A Yes.

Q We're gonna go back. Who else -- or was there anybody else who was patted down?

A Yes, Akeem Chaplin.

COURT REPORTER: I'm sorry, say it again?

BY WITNESS:

A. Akeem.

COURT REPORTER: All right.

BY MS. MOLINA:

Q And did he say anything while he was patting down these guys?

A You know, he was like, "Baby, you're

broke," with a smile on his face.

Q And did Akeem react getting pat down?

A No.

Q And you said he ain't the normal A.J., what does that mean?

A That wasn't the normal A.J. He'll drink, but he'll have a good time, not aggressive.

Q Do you know him to carry a gun?

A I've never seen him with one.

Q Does he talk a lot of trash?

A Yeah, but in a fun and joking way.

Q Teasing?

A Yes.

Q Okay, when you're in the shed and Stephan comes back in, what happens inside the shed at that point?

A When he came back inside the shed?

Q Yes, ma'am.

A A.J. was sitting in the corner in a chair, someone else was sitting at the table here. Stephan was sitting behind -- there was a table toward the back wall, he was sitting on one side, and a guy was sitting back there. A.J. was in the chair talking.

They both was running their mouths. They started talking shit per se. Stephan had the gun in his hand. That's when everybody ran out of the shed.

They ran out of the shed and Stephan and A.J. got not a tussle.

He hit Stephan -- Stephan hit A.J. across the face sometimes with the gun. The gun flew out of his hand. At that point when the gun flew out of his hand, I kind of like -- kinda ran out of the way, because I had just had surgery on my foot.

A.J. got up, stumbled, and like I said, he said, "Are you gonna shoot me? That's what we doing? You're gonna shoot me?" He's right behind the car, taps on the back part of the car, like by the trunk.

Stephan was actually driving; he opened the door and he fired a shot.

Q When you said he opened the door, who opened the door?

A Stephan opened the door.

Q Did A.J. make any threats towards Stephan that night?

A Not that I heard.

Q Did he ever present a weapon or a gun toward Stephan that night?

A No.

Q Did -- in this fight, who won the fight, the physical fight?

A I don't know who won the fight.

Q Did --

A What do you mean?

Q Did A.J. hit Stephan back?

A I didn't see A.J. hit Stephan.

Q Did you see Stephan?

A Yes.

Q And where was he hitting him; do you remember, well, I mean on his body?

A Well, they were -- Stephan was angry and he hit him a few times with the gun.

Q While they're in the confrontation, is everybody trying to calm it down?

A There was people trying to calm it down.

Q At some point during the night, did A.J.'s pants fall down?

A Yes.

Q Can you tell us about when that happened?

A That's when he got up off the ground. It was while he was trying to go behind the car. His pants dropped to his knees. They was tied up by a shoestring, and a pack of cigarettes dropped out of his pocket and a wallet.

Q And you didn't, at that point, see any gun on A.J.?

A No, ma'am.

Q Was another car coming in while Stephan was leaving?

A Sherard Johnson's car came through.

Q Can you tell us about -- was that at the same time?

A Stephan was actually leaving out when Rod was coming in.

Q Did Stephan have to slow down for him?

A He would have to slow down, because the road ain't but so big, so only one -- like if I'm going out this way --

Q Uh-huh.

A -- and you're coming out this -- you're coming in, only one car can fit, so you're gonna have to stop for the car to come in.

Q So what did you -- what happened after A.J. was shot?

A After Stephan had left?

When he dropped to the ground, he kept screaming to us, "I'm gonna die." He was calling his mom's name. He was calling his Aunt Gloria's name saying, "I love you."

He was telling us all he loved us.

He was telling Van, "Finish me off, finish me off."

She was like, "What are you talking about, A.J.? You're gonna make it, you're gonna make it." He was like, "Van, just finish me off." And I was like, "A.J., what you talking about, you're gonna make it."

So he was -- Van had got like a little cloth and was trying to pinpoint the -- keep the blood from coming out, but it was coming out the top part of his chest and the bottom part. It was bad.

And so Alexis called the police, well, 911, and stayed with him until the ambulance got there. When the ambulance got there, A.J. was still laying on the ground. We all was kneeling down by A.J.

The put him on the gurney, and he waved at us, and Art was like, "Dude, we're gonna see you

tomorrow," and then he left.

Q What happened -- what did you do -- what happened after that?

A The police came.

Q And were you on-scene when the police were there --

A Yes.

Q -- after he was taken? At any point in the night were you afraid of A.J.?

A No.

Q In 2019 were you convicted of felony, a breach of trust offense?

A Yes.

Q Are - were A.J. and Stephan your friends?

A Yes, we all got along.

Q And you guys regularly hung out?

A We all played cards together all the time.

Q And were there other people there at the time that left?

A A lot of people scattered.

Q But you stayed to help A.J.?

A Me, Banger, Alexis, and Art.

MS. MOLINA: The Court's indulgence.

BY MS. MOLINA:

Q Oh, did you hear Stephan threaten A.J. in the shed?

A Did he -- did I hear him threating A.J.? I didn't hear him.

Q You didn't hear say anything?

A I didn't hear.

Q Okay. No further questions. Please answer any the defense may have.

THE COURT: Cross-examination.

**

CROSS-EXAMINATION

BY MR. LEE:

Q Good afternoon, ma'am.

A How are you doing today?

Q I'm good. This whole state of events that you just testified to in the last five minutes, ma'am, how long did it take that night for all this stuff to happen, from when A.J. got there to when the cops showed up?

A From the time the argument started, or what time we were all gathered at the house?

Q From when A.J. got there.

A It wasn't even an hour after that.

Q It wasn't even an hour? It looks like

the cops came at 10:49, because that's when it was reported.

So are you saying that A.J. didn't get there until about 9:49?

A I don't know the exact time, sir.

Q Okay, but I mean I'm not trying to trick you, just a couple hours, right?

A I don't know about that time, so --

Q Well --

A -- all I can't tell you the time, 'cause I don't know the exact time.

Q Was it dark when A.J. got there?

A It was kind of dark.

Q Kind of dark?

A It wasn't all the way dark, dark, but it was kind of dark.

Q Okay. And this was in May, right, May 29th? Now, what you just testified to -- you went through it pretty quick. Is there anything else, at this point, that you want to clarify, or change your answer on, or anything the Solicitor asked you? Anything else that your answers could include to help this jury?

A What do you mean?

Q I'm just asking --

A I answered all the questions I've been asked.

Q Okay. And according to you -- well, let me back this up. What time did you get to Court this morning, 9:30 or so?

A I got here at quarter to 9:00.

Q 9:00. And you stayed over in the witness assembly, or the jury assembly room?

A Yes.

Q Right, and who was over there with you, like --

A Me, Natasha --

Q Or Banger?

A Banger.

Q Yeah.

A The police officers.

Q Okay.

A A lady and two men.

Q Okay. Did you and Banger talk about this case?

A No, we didn't.

Q You didn't say one word about this case, while --

A The only --

Q -- you were waiting for this trial?

A Only thing we said about the case when we were sitting over there, Banger made the comment said, "I'll be glad when this case is over, because this is sad."

Q I think we all can agree on that.

A Very sad.

Q Yes. For both sides, right?

A Right.

Q I agree with you on that. And so on the 29th you were there, and you stayed around until law enforcement got there, and then how long were you there -- you had to leave because you had to get your foot like on a machine, or something, right, because it was injured?

A Yes.

Q Okay.

A I left after the police asked us all questions, and he told us that we could leave.

Q Okay. And you had to get out of there, because you had to be put on a machine or something?

A I have a machine.

Q Okay, all right. So you're saying you talked to the police that night?

A Yes.

Q Which one? Who was it?

A I don't know his name, or what's his name.

Q But you told him everything that happened?

A He didn't ask very many questions.

Q All right.

A Yeah.

Q You didn't tell me anything --

A He didn't ask me any questions. Like he just was -- he was more so worried about my baby than anything else.

Q And then you got -- you and Banger got out of there, right?

A Yeah, they told us we could leave.

Q Okay. And so that's Friday night late, going into Saturday morning. Saturday when you woke up to this tragic event, did you reach out to law enforcement to say, "Hey, I was there, I can tell you everything that happened?"

A No.

Q Did you reach out to Banger to talk about this? You talked to her, right?

A I talked to Banger and told her that I needed to come -- I needed her to pick me up, so

I could go get my car, because my car was left there.

Q Okay, so your car was like stuck there behind the police tape?

A Yeah, they wouldn't let us get the car.

Q Okay. All right, so -- and that's what you did on Saturday the next day. Sunday, the next day, did you call the police, or go talk to them, or give any kind of statements or anything?

A I don't think I did.

Q Okay, that would have been March -- I mean May 31st or May 30th rather, I believe. And then May 31st was a Monday, and it was Memorial Day, so it was a holiday, right?

A I guess so.

Q Okay, so did you have to work that day? Did you work that day?

A I don't remember.

Q Okay. All right, well, any time during the Memorial Day holiday, did you reach out to law enforcement or anybody, to say, "Hey, I was an eyewitness, I can tell you what happened?"

A No.

Q You didn't, did you? Okay, and the

next day was June 1st, which was a Tuesday. No contact with law enforcement, right?

A Sorry, I can't tell you what specifically -- I can't tell you what day it was that we had to go down there to the police department, if that's what you're asking.

Q It was actually June 3rd, which would have been, I believe, a Thursday; does that sound right, when you went down and talked to Investigator Byrd and Duncan?

A Well, we had to go down there and talk to them.

Q Who's "We"?

A They called for all of us to come down there.

Q Okay. Do you remember them telling you that you were -- they were looking for Pumpkin, and you were a hard woman to track down?

A Yeah.

Q Yes? Okay. Because they had to track you down, right?

A No, they didn't have to track me down.

Q They didn't?

A No, because I wasn't hiding?

Q You weren't?

A I'd be in the same spot the whole time.
Q Okay. But Banger talked to them the day before, and she mentioned your name, didn't she?
A I don't know what Banger said to them, I wasn't there.
Q Banger didn't let you know that she had brought your name the day before when she talked to them?
A I wasn't there when Banger talked to them.
Q Okay, I'm asking if Banger calls you that she had talked --
A No, she didn't.
Q She didn't? Okay. So suddenly on the 3rd or so of June you had an epiphany that you wanted to go talk to the police, or you -- they got in touch with you finally?
A They got in touch with me.
Q Okay. And your testimony today here is, you're at this card game, because you're one of the hosts, and A.J. shows up, and you said he's happy-go-lucky A.J., right?
A Pretty much all the time.
Q Okay, so he was the exact same that

night as you've always known him?

A He might have had a couple beers, that's normal.

Q Okay.

A A drink, that's normal.

Q Okay, that's normal, but nothing unusual about him that night according to you?

A Not to me.

Q Okay. Did you see him outside screaming to -- screaming at the sky by himself when he got there?

A Did I see him screaming --

Q Yeah.

A -- to -- no, I didn't.

Q You didn't? Okay. Did you hear him telling people, "Kill me, shoot me," all that kind of stuff?

A Yeah, that was after-the-fact that he had got shot, and he was laying on the ground, and he was like, "I've been shot -- I'm gonna die," but that was after-the-fact that he got shot.

Q But he wasn't saying that to anybody else? He wasn't saying that to you, and he wasn't saying that to Stephan, and he wasn't

saying it to any of those people that were there --

A No.

Q -- or anybody?

A He was saying -- when he -- after he got shot, Stephan had already left.

Q Okay.

A He was saying that when he was on the ground.

Q Okay, but he never said anything like that beforehand?

A No.

Q Okay. Do you remember Art having to go get a shotgun from the house, because of the way A.J. was acting?

A I never saw Art with a gun.

Q You never saw Art with a gun? Okay. And there's something about right before Stephan was finally able to leave, you said he got out of the shed and he went the other way, right?

A When you walk out of the shed --

Q Uh-huh.

A -- they were fighting over here --

Q Okay.

A -- to this side. That's his trailer

this way --

Q Uh-huh.

A The car's parked that way, I went that way.

Q Okay.

A To where my car was parked.

Q To get away?

A Because they were fighting.

Q Okay, all right. Do you remember Alexis telling A.J. to stop acting that way, because the kids were scared?

A Say it again?

Q Do you remember Alexis telling A.J. to stop acting that way because her children were scared?

A No, I didn't hear Alexis say that.

Q Okay, and you don't remember that being said, and in response to that Art went to get his shotgun?

A I never saw Art with a shotgun, and I never heard Alexis say that to him either.

Q Okay. So everything that you really saw or remember, Ms. Brown, is stuff that is detrimental or harmful to Stephan Polite; is that right?

A What do you mean by that?
Q All your testimony --
A It's a sad --
Q -- seems to be against him.
A It's a sad case for both things, and I'm not -- I don't have a personal issue with Stephan.
Q Okay.
A If that's what you're trying to say, you know, I'm telling you what I saw and what I know. I can't tell you nothing that I didn't see.
Q Exactly.
A I can't tell you that.
Q Okay. Well, it's probably safe to say that there's a lot of things that you didn't see then? I mean is that --
A I saw when A.J. got up. I saw when A.J. got shot. And like I said, it's sad for both sides of the family, because we all were friends. We all grew up in the same place.
Q Sure.
A But I'm not gonna sit up here and tell you that I saw something that I didn't see --
Q Okay, good.

A -- or hear something I didn't hear.

Q Thank you.

MR. LEE: No further questions.

MS. MOLINA: Thank you, ma'am, you may step down. You may call your next witness, Solicitor.

MS. MOLINA: May she be released?

MR. LEE: I have no further questions, yeah, absolutely.

THE COURT: She may be released from your subpoena.

MS. MOLINA: The State calls David Phillips.

DAVID PHILLIPS,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Good afternoon, Dr. Phillips, where do you work?

A Beaufort Memorial.

Q And what kind of work do you do?

A I'm a forensic physician.

Q Where did you go to medical school?

A Wayne State University.

Q And where did you do your residency?
A At MUSC Medical Center.
Q And in what field was your residency?
A It was a combined residency in forensic medicine and internal medicine.
Q How long have you been working at Beaufort Memorial?
A Eleven years.
Q Were you working on May 29th, 2021?
A Yes, I was.
Q And did victim, Anthony Rivers, Jr., come into the emergency room?
A Yes, he did.
Q And do you recall his injuries?
A He was -- had a gunshot wound to his back and neck area.
Q Was he responsive when you saw him?
A No.
Q And what did you do when you saw him?
A Presented from a gunshot wound, he was unconscious, and so we needed to try and resuscitate him.

We attempted to put -- started putting chest tubes in, giving him fluid, blood products, those -- and those things.

Q And were you able to resuscitate him?
A No, we were not.
Q Did you pronounce him dead after that?
A Yes, ma'am, I did.
MS. MOLINA: No further questions for this witness.
BY MS. MOLINA:
Q Please answer any the defense has.

**

CROSS-EXAMINATION

BY MR. LEE:
Q Dr. Phillips, were you the one that ordered a toxicology screen on Mr. Rivers?
A I can't recall, to be honest.
Q Did you test something that would be particularly done in the normal course of business?
A Sometimes yes, depending on the situation, but it wouldn't be -- I mean if it was -- we are, and part of our goal is to first, you know, resuscitate them and --
Q Okay.
A A drug screen is usually part of our initial resuscitation protocol.
Q But if someone did pass away and they

did a toxicology screen, when they took urine and blood, would it usually be at the hospital they would take that blood from a deceased?

A That would be up to the Coroner.

Q Okay.

MR. LEE: That's all I have, Judge. I have no objection to him being excused.

THE COURT: Thank you, Doctor, you may step down, and you may be excused from your subpoena.

WITNESS: Thank you.

MS. MOLINA: State calls Chelsea Seronka.

CHELSEA SERONKA,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOLINA:

Q Staff Sergeant Seronka, do you currently work at BCSO?

A Yes, ma'am, I do.

Q How long have you been there?

A It will be 19 years in July.

Q And what do you currently do at BCSO?

A I'm currently the staffing and

recruiting officer for the agency.

Q In 2021 what did you do?

A I worked in Investigations.

Q Were you working on May 29th, 2021?

A Yes, ma'am.

Q And did you -- were you called for assistance in an investigation at 10 Keystone?

A Yes, ma'am.

Q And what was your involvement?

A I was asked to respond to the emergency room.

Q Okay, and when you got to the emergency room, what did you do?

A I was asked to take pictures of the victim, collect evidence, including clothing and swabs.

Q I'm going to hand you State's Exhibit 47. Do you recognize that?

A Yes, ma'am.

Q What is that?

A This is the evidence bag that -- with the evidence I collected from the emergency room and submitted into evidence.

Q Okay, and what's inside that bag?

A Inside this bag is a pair of black jean

shorts, and one green t-shirt both belonging to the victim.

Q And did you seal that and initial it?

A Yes, ma'am, I did.

MS. MOLINA: State moves State's 47 into evidence.

MR. LEE: No objection.

THE COURT: Admitted without objection.

(State's Exhibit 47 admitted into evidence.)

BY MS. MOLINA:

Q I'm going to show you State's Exhibits 12 and 13. Do you recognize those items?

A Yes, ma'am.

Q What are those?

A These are photographs of the items inside that bag prior to them being in the new bag.

Q And are those a fair and accurate representation of how those items looked?

A Yes, ma'am, they are.

MS. MOLINA: State moves State's Exhibits 12 and 13 into evidence.

MR. LEE: No objection.

THE COURT: Motion is granted.

(State's Exhibits 12 - 13 were admitted into evidence.)

MS. MOLINA: And permission to publish?

THE COURT: Certainly.

BY MS. MOLINA:

Q Did you find any, or collect any personal items belonging to the victim?

A Yes, ma'am.

Q And what were those items?

A So give me a moment, may I read them from my report?

Q Yes.

A Thank you. The victim had a paper towel, a lighter, some change, a pack of cigarettes, a boxcutter, cash, and I believe that was it, and cash inside the pocket of his pants.

Q Okay, I am handing you State's Exhibit 14, and what is that item?

A This item is the cash that was inside his pocket.

Q Okay, and State's Exhibit 15?

A The change from his pocket.

Q State's Exhibit 17?

A The cigarettes from his pocket.

Q State's Exhibit 18?
A The lighter from his pocket.
Q State's Exhibit 19?
A The boxcutter from his pocket.
Q State's Exhibit 16?
A This is the paper towel from inside his pocket.
Q And after you collected those items, did you seal them and initial them?
A Yes, ma'am.
Q And maintained their integrity while they were in your custody and control?
A Yes, ma'am.
MS. MOLINA: State moves 14, 15, 16, 17 and 18 into evidence.
MR. LEE: No objection.
THE COURT: Motion is granted without objection.
(State's Exhibits 14-18 were admitted into evidence.)
MS. MOLINA: And permission to publish.
THE COURT: You certainly may.
BY MS. MOLINA:
Q Did you also collect DNA swabs?
A Yes, ma'am, I did.

Q And where did you swab, or what did you swab?

A I swabbed the victim's hands and face.

Q Did you take a buccal swab from him?

A Yes, ma'am, I also took a buccal swab.

Q I'm handing you State's Exhibit 20 and 48. Do you recognize these items?

A Yes, ma'am, these are the swabs that I collected.

Q And did you sign and seal those?

A Yes, ma'am, I did.

Q And maintained their integrity while they were in your custody and control?

A Yes, ma'am.

Q Did you take any other swabs from the victim?

A I did, I collected a gunshot residue kit from him.

Q I'm gonna hand you what I've just marked as State's Exhibit 55 for identification purposes. Did you cut open State's Exhibit 55 this morning?

A Yes, ma'am, I did.

Q And what is contained within State's 55?

A Inside this bag are all of the gunshot residue kits I collected from that evening --

Q Okay.

A -- including the one from the victim.

Q Okay. And I'm handing you State's Exhibit 21, 22 and 23. And do you recognize those items?

A Yes, ma'am, I do.

Q And what are those items?

A Gunshot residue kits collected from the victim, Ms. Smalls and Mr. Washington.

Q Okay. What is State's Exhibit 21?

A 21 would be the one from Mr. Rivers.

Q Okay, and State's Exhibit 22?

A That would be the one from Ms. Smalls.

Q And State's Exhibit 23?

A That would be the one from Mr. Washington.

Q And after you collected those items, did you sign and seal them in the packaging?

A Yes, ma'am, I did.

Q And did you maintain their integrity while they were in your control?

A Yes, ma'am, I did.

Q After you finished at the hospital,

what did you do?

A Returned to the crime scene at Keystone.

Q And what did you do when you were there?

A When I returned there, I spoke briefly with Mr. Washington --

Q Okay.

A -- and I collected those.

Q And by those you mean the --

A The gunshot residue kits from Mr. Washington and Ms. Smalls.

Q Did --

MS. MOLINA: Court's indulgence.

BY MS. MOLINA:

Q And of the items you collected, the gunshot residue and the DNA, and the boxcutter, did you submit those for testing?

A I did not submit those for testing, no.

Q But you put them in evidence?

A Yes, ma'am.

Q Okay. No further questions, please answer any defense has.

THE COURT: Cross-examination.

**

CROSS-EXAMINATION

BY MR. LEE:

Q Good afternoon.

A Good afternoon.

Q So that night you went to 2 locations, to the hospital and back to the location?

A No, sir. I went to the hospital --

Q Hospital.

A -- and went to the location.

Q Gotcha, but you got to the location how long after the -- do you know an estimate?

A Unfortunately, I would have to check --

Q Okay, well --

A -- on the body-worn camera.

Q -- that same night, early morning?

A That -- yes, sir.

Q Gotcha, okay.

When you got there do you -- you saw Arthur Washington, right?

A Yes, sir.

Q He lives there, right?

A Yes, sir.

Q Okay. Did you have a chance to talk to him?

A Briefly, yes.

Q He told you he still has no idea what happened. He went into the house to talk to the girls, heard a gunshot and came outside and everybody was leaving. That what he told you, right?

A Yes, sir.

Q Did he tell you who the girls were?

MS. MOLINA: Objection, hearsay.

MR. LEE: She's already answered, I want her to elaborate on you used the term, girls, she already said that.

THE COURT: I'll sustain the objection.

MR. LEE: Okay.

BY MR. LEE:

Q And you took gunshot residue kits for testing from Arthur Washington and for Alexis Smalls, right?

A Correct.

Q Can you tell us why you chose those two?

A At that time they were the two remaining individuals on-the-scene that I was aware.

Q Okay?

A Correct.

Q All right, now, something else that you wanted to investigate or look into because it became apparent to you that it was important, was the shed, this G shed, right?

A Yes.

Q And the G shed apparently was where people had been inside earlier that night, right?

A Correct.

Q Okay. And now, in law enforcement you can't just go busting up inside someone's house or shed and start looking around, can you?

A Correct.

Q What do you have to do before you do that?

A Receive permission from the owner of that premise, enter it.

Q All right, and you thought it would be important to go inside that shed --

A Yes.

Q -- as the lead investigator?

A Yes.

Q -- to do your investigation? So you, in fact, asked Mr. Washington that night for consent to search that shed, correct?

A Correct.
Q And what did he say?
A No.
Q He refused to allow you to go in the shed?
A Correct.
Q Did you get a search warrant at any time?
A No, sir.
Q And one of the things, I assume, that keeps you and investigators keep cool is -- the sooner you look for stuff, the better chance you have to find it, right?
A Correct.
Q Okay. And do you know if that shed was ever searched?
A Not to my knowledge.
Q But you didn't search it?
A No, sir.
Q And you wanted to at least look around and --
A Yes.
Q Okay, and the owner of the property refused you access to that shed?
A Correct.

Q And as a result, you were not able to go in there?

A Correct.

Q Okay. Thank you.

A Yes, sir.

**

REDIRECT EXAMINATION

BY MS. MOLINA:

Q Were you the lead investigator on this case?

A No, ma'am, I was not.

Q No further questions.

A Thank you.

THE COURT: All right, thank you, you may step down.

WITNESS: Thank you, Your Honor.

THE COURT: You may call your next witness.

MS. MOLINA: The State calls Investigator Robert Byrd.

**

ROBERT BYRD,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

**

DIRECT EXAMINATION

BY MS. MOLINA:

Q Where do you work, Investigator Byrd?

A I work for the Beaufort County Sheriff's Office.

Q And how long have you been with them?

A I've been there since October 2015, so nine years, going on nine years.

Q What is your current role at BCSO?

A I'm a Sergeant in digital forensics. I do digital investigations.

Q Were you working as a digital investigator in 2021?

A In 2021 I was assigned to the Northern Investigations Division.

Q Were you working on May 29th of 2021?

A I was called to work.

Q You said you weren't working, and they called you out?

A Yes, ma'am.

Q And where did you respond?

A I was asked to respond to 10 Keystone Drive, St. Helena Island.

Q Is that in Beaufort County?

A It is in Beaufort County.

Q What did you see when you got there?

A When I got there I met with Sergeant Perkins, they were on-the-scene, and I observed some placards on the ground that had been marked by the body.

Q Was the victim still there?

A He was not.

Q And so then what did you begin to do?

A At that moment document the crime scene, interviewing any witnesses, potential witnesses. The potential witnesses were upset, didn't really want to speak much at that point. So my role at that moment was to document the crime scene, collect the evidence.

Q And so you began to collect the various items that were marked by the placards?

A I did.

Q I'm going to hand you State's Exhibit 36, and I'm also going to hand you a pair of scissors. Can you cut that item open for us? Do you recognize this item?

A This is the casing that was collected from the scene, and that has placard number one.

Q And you cut it open out of the bag, but when you collected that item, did you sign and

seal it?

A Yes, ma'am, I did. It was actually placed into a smaller single envelope, which was sealed and initialed, and then it was placed into a larger envelope, which had the case information and was sealed.

Q I'm going to hand you State's Exhibit 37. Do you recognize this item?

A Yes, ma'am. This is the black towel with blood. It was identified at placard number two.

Q And did you seal it?

A I sealed it, initialed, dated it.

Q I'm handing you Exhibit 38, what is that item?

A This is two plastic bags, they had blood all over them. They were over there by placard number three at the crime scene. I sealed it and initialed it.

Q Now, while those items were in your custody and control, did you change or alter them in any way?

A No, ma'am.

Q And you maintained the integrity of these items --

A Yes, ma'am.

Q -- while they were in your care? Okay, and what did you do after you collected these items?

A Once I reviewed the immediate area -- That was all the evidence that was located. We did a canvass down Keystone, describing the residences, for any kind of possible witnesses that we maybe had missed at the moment.

Q Did you also find a black glove there?

A I did. There was a black nitrile glove, commonly used by first responders. Fire and EMS use it to protect themselves from pathogens. Law enforcement use it for the same reason, or to protect evidence while collecting evidence.

Q So after you canvassed the area and collected the evidence, what did you do next?

A We spoke with -- briefly spoke with Arthur and Alexis.

Q Okay. In the following days of your investigation, were you able to develop a suspect?

A Yes, ma'am, we were.

Q And who was that suspect?

A We were able to develop Stephan Polite as a possible suspect.

Q Did you attempt to meet with him?

A We did. The following day -- we did not know the name of Stephan on Sunday, and this happened Friday night, Saturday morning.

Sunday, I received a phone call from a person wishing to remain anonymous, a possible suspect, person of interest in Stephan. I immediately responded out to the South Hill area, the area of Keystone Drive, began canvassing, trying to talk to anybody that I could find out who Stephan was.

After that, that Monday, Staff Sergeant Duncan and I were still back at South Hill canvassing, attempting to locate a Stephan.

The same person that wished to remain anonymous had given us a description of a -- that Stephan -- didn't know his last name but drove a Grand Marquis. We were out there attempting to locate that Sunday, that Monday, and then we finally came across --

Q You were able to make contact?

A We were.

Q And after making contact, did you'all

set up an interview?

A We did. We were contacted -- we made contact with Mr. Polite's family. Mr. Polite's family stated that his attorney and Mr. Polite would meet with us on the 2nd, that Tuesday, the Wednesday.

Q June 1st?

A June 1st, that Tuesday, sorry.

Q So that following day who came for the interview?

A It was Mr. Polite, and he was accompanied with his then attorney, Mr. James Moss, and he was also accompanied with his girlfriend, Ms. Michelle Smalls.

Q And accompanied by his lawyer, they -- the Defendant and his lawyer provided a statement to you'all?

A Yes, ma'am.

Q What was -- what did the Defendant say happened, either directly, or through his lawyer?

MR. LEE: I object to that question. Her saying indirectly through his lawyer, that's speculation on her part.

MS. MOLINA: It's his attorney, he's

representing him, he adopts his statements throughout the interview.

MR. LEE: It's a legal conclusion, Your Honor. I mean she's leading the witness; she's making legal statements about him adopting what his previous lawyer said.

THE COURT: Well, is his lawyer not his agent? I'm asking.

MS. MOLINA: The State's position, it's his lawyer, it's his agent, they went there to speak to give a statement, and by and through the attorney a statement was given.

THE COURT: Is there anything further on it?

MR. LEE: Well, I just think it's improper for her to make a legal conclusion, that he adopted that statement as his own, it's his statement.

THE COURT: Okay, I'll overrule the objection, you --

MR. LEE: Yes, sir.

THE COURT: -- may proceed.

BY MS. MOLINA:

Q What did he say?

A He acknowledged that Mr. Polite was at

the party at 10 Keystone. He acknowledged that there was an altercation between Mr. Polite and the victim.

Said that he -- there was a physical altercation. He further went into explaining that Mr. Polite was attempting to leave. At some point there was a struggle, an altercation, and a gun went off.

Q He said -- did he say that the victim slammed the door open on the car?

A He did.

Q And that a struggle -- he was reaching for the gun --

MR. LEE: Your Honor, I'm gonna object to the leading again.

THE COURT: All right, I will sustain that objection.

BY WITNESS:

A He said -- Mr. Moss said that they were playing cards, and what happened is, that he came there, and by he, he was referring to the victim, either drunk, and he said that there was a -- he came in the shed drunk, spit at him, says the victim spit at Mr. Polite, and showed an intolerance for him.

Q Did he also indicate that the victim was on drugs?

A He assumed that.

Q Okay.

A Since then he eventually left, but he was locked in the shed area, and they were playing cards. Says that he -- if I may?

Q Uh-huh.

A "He went in the car," and he pointed at his client, Stephan, he said, "I believe that that's when this guy basically attacked him, tried to get the gun and the gun went off."

Q Okay. Did Stephan Polite identify anybody that was there that night?

A Stephan actually did. There were they said that Randy Moss was there, they brought up the name Crystal Evans. Crystal Evans had -- it was discovered later that Crystal Evans had been with the victim prior to ever being there, and Crystal Evans was not there.

Q Who else did he say was there?

A Alexis, Banger, Arthur, Pumpkin.

Q Renee Brown.

A Renee Brown was.

Q Who --

A That's Pumpkin.

Q Pumpkin?

A Yeah.

Q And that was Stephan telling you that information?

A That was Stephan, and Mr. Polite actually -- Stephan actually clarified several questions of last names of the names that he knew.

Q He was participating in the interview?

A He was.

Q And did he -- you said he provided clarification; did he ever correct information?

A He did.

Q During that interview did he give you consent for the car and the gun?

A Mr. Polite and Mr. Moss acknowledged the car, said that they would make it available for us, and they were asked about the gun, and they further stated that they would make the gun available to law enforcement.

Q Related to the shed, did Stephan tell you anything about being in the shed?

A Stephan stated that they had locked him in the shed to calm the victim down.

Q And was anybody with him in the shed did he say?

A I don't recall if he said the names. A couple people stayed there with him, the rest of them -- Stephan actually stated, "A couple of them stayed in there with me, the rest of them -- I don't know what was going on out there.

I heard he was out there. They asked me to stay in there. I stayed." He said -- we asked him who was in there, he stated, "That the homeowners locked him in there.

Q What did the Defendant say in regard to whether he was drinking or not?

A He said he did not.

Q Does he drink?

A Mr. Moss says he does not.

Q Did the Defendant indicate whether he and the victim were family?

A Cousins.

Q And whether they had disagreements?

A Mr. Moss said that they had had a disagreement a few months prior.

Q But in general did Stephan say anything about disagreements?

A The family disagrees with each other.

He said, "I don't initiate it, I always walk away, but that's the thing, I wouldn't hurt nobody in my family.

Q And they agreed to make the gun and car available to you?

A They did.

Q After that interview, what did you do?

A That interview, and then we had some names of other witnesses. Started identifying those witnesses. We went back, as we were identifying them, and located and interviewed other witnesses.

Q I'm handing you what's been previously marked as State's Exhibit 24 through 35.

A Yes, ma'am.

Q And do you recognize those items?

A Yes, ma'am.

Q And what are they?

A Item 24 through 34 are pictures of the vehicle at our impound lot at -- for processing, or during processing. And item 35 is a picture of the handgun.

Q And were those images taken when you were processing the vehicle?

A The images of the vehicle were taken as

we were processing the vehicle.

Q And talk about processing the vehicle, how does that work?

A What we do is, a vehicle, we will take pictures of the vehicle prior to processing, the exterior. We'll open the doors take interior photographs. It depends, every kind of vehicle is different. We may process the exterior prior to opening the doors when we're collecting stuff.

We dust -- we typically dust through anything for latent impressions, fingerprints -- we'll dust for that. That will also give us an idea of maybe where to swab, if we're not able to locate the latent impressions.

And we process -- in this case we knew that the vehicle was in play for a gunshot, so we'll process for gunshot residue, and start to see if we can corroborate any statements made about gunshots going off in the vehicle.

Q So in this case you started with those pictures, correct --

A Yes --

Q -- of the vehicle?

A Yes, ma'am.

Q And they're a fair and accurate depiction?

A Yes, ma'am.

MS. MOLINA: State moves State's 24 to 34 into evidence.

MR. LEE: No objection.

THE COURT: Admitted without objection.

(State's Exhibits 24 - 34 admitted into evidence.)

MS. MOLINA: And permission to publish? Pe Permission to publish?

THE COURT: Certainly.

BY MS. MOLINA:

Q What is State's Exhibit 24?

A It's a picture of the driver's side of the vehicle at our impound.

Q And State's Exhibit 25?

A Further pictures of the driver's side of the vehicle.

Q And in looking and processing this vehicle, did you note any damage to the car?

A No, ma'am.

Q Maybe a small dent by the -- but otherwise --

A No, I mean like normal wear and tear of

a 1999 vehicle.

Q Okay. State's Exhibit 26?

A That's with the doors opened, that's the driver's side door, the interior.

Q When you were looking inside the vehicle, did you see any blood?

A I did not.

Q State's Exhibit 27?

A That's the driver's side door.

Q Did you observe any blood on the driver's door?

A I did not.

Q State's Exhibit 31?

A Driver's seat.

Q Any blood?

A No, ma'am.

Q 32?

A Driver's seat.

Q Any blood?

A No, ma'am.

Q Now, did you process -- you were talking about the different ways to process, what did you process in this case?

A In this particular case, I took photographs, dusted the exterior driver's door

on the handle and all, collected DNA swabs and collected GSR kits --

Q And when --

A -- and --

Q What do you mean by dusted?

A We use for latent impressions, fingerprint dust.

Q And are these latent impressions?

A It's -- they are latent impressions. They're not -- it didn't show ridge detail.

Q Are they called something else?

A Smudge quality.

Q Smudges?

A That's what we'd refer to as a smudge.

Q And so what did you do after you dusted?

A After I dusted, collected DNA swabs --

Q Where did you take DNA from?

A Collected 16 DNA swabs, interior of the driver door, the exterior of the driver door at the keypad area, the exterior driver door handle, the exterior driver's side B pillar, which the A pillar is where the windshield is, B pillar would be between the driver's seat and the rear passenger seat.

Where the seatbelt is in the center you can actually see the B pillar.

Q Okay.

A The exterior of that. The driver's side rear passenger door exterior, and the exterior driver door window.

Q Now, I'm gonna hand you State's Exhibit 42, which I've previously shown to the defense. Do you recognize that item?

A I do.

Q And what is it?

A These are the 16 DNA swabs of the vehicle that were collected.

Q And after you collected them did you -- what did you do? Put them in the package?

A Put them in the package, sealed it and initialed it.

Q Did you maintain the integrity of those items?

A I did.

Q Did you alter or change them in any way?

A No, ma'am.

Q I'm also gonna hand you what's been marked as State's Exhibit 55. And there are

various items in there, but as to State's Exhibit 44 and 43, do you recognize those?

A Yes, ma'am.

Q And what are those items?

A State's Exhibit 44 is a gunshot residue kit that was used on the vehicle driver door. And State's Exhibit 43 is a gunshot residue that was also used on the suspect vehicle.

Q Where in the suspect vehicle?

A These kits contain two vials, a left and a right for the hands. We used this kit, State's Exhibit 43, the right hand was used for the B pillar interior, and the left hand was used for the driver's seat.

Q Okay.

A State Exhibit 44, the right hand was used for the windowsill.

Q Which windowsill?

A The driver windowsill. And the left hand was used for the driver's door interior, so like where that handle is, where you'd open the door, kind of rest your arm on, that was the left hand, and the right hand was used for the windowsill area.

Q And then did you sign and seal those

items?

A Yes, ma'am.

Q And did you maintain their integrity while they were in your control?

A Yes, ma'am.

Q And altered or changed them in any way?

A No, ma'am.

Q After you processed the vehicle, what did you do?

A After I processed the vehicle, that's when I processed the firearm that was collected.

Q And I'm handing you, again, State's Exhibit 35.

MS. MOLINA: And at this time, the State moves 35 into evidence.

BY MS. MOLINA:

Q Well, was that picture taken while you were processing the gun?

A Prior to processing, or during the same time.

MS. MOLINA: State moves 35.

MR. LEE: No objection.

(State's Exhibit 35 was admitted into evidence.)

MS. MOLINA: And permission to publish?

THE COURT: Granted.

BY MS. MOLINA:

Q Is this the gun turned over to you by the Defendant?

A Yes, ma'am.

Q And how did you process this item?

A That item is part of the swabs we collected. One from the trigger, or trigger housing, one DNA swab from the grip, and one DNA swab from the slide.

Q And I'm handing you State's Exhibit 45 and 46. Do you recognize those items?

A So 46 is a DNA swab of the magazine, and then 45 is 3 DNA swabs from trigger, trigger housing and grip and the slide.

Q Okay, those are the swabs you took of that?

A Yes, ma'am.

Q And you signed and sealed those?

A Yes, ma'am.

Q And maintained their integrity?

A Yes, ma'am.

Q Did you alter or change them in any way?

A No, ma'am.

Q Okay. And I'm gonna hand you State's Exhibit 41, and what is that item?

A This is the magazine that was collected with the firearm.

Q And did you sign and seal that one too?

A Yes, ma'am.

MS. MOLINA: And State moves State's 41 into evidence.

MR. LEE: No objection.

THE COURT: Motion is granted.

(State's Exhibit 41 was admitted into evidence.)

BY MS. MOLINA:

Q Okay, and I'm gonna hand you State's 40, and it's -- did you cut that open?

A This morning, yes, ma'am.

Q Okay, and what is State's 40?

A State's 40 is the firearm that was collected.

Q Okay. That's the firearm we see in the picture?

A Yes, ma'am.

Q And once you collected it, did you seal it in the box and --

A Yes, ma'am, our seals, you'll see

several different seals, and it's from the several labs that process, and my seal is on there. It was sealed and initialed.

Q And you didn't alter it or change it in any way?

A No, ma'am.

THE COURT: Ms. Molina, would you get the witness to explain to the jury why this will not operate?

BY MS. MOLINA:

Q Has that gun been made safe for court?

A Yes, ma'am, it has.

Q And how has it been made safe?

A I opened it this morning, I put a lock, so the slide won't close one chamber round.

Q So it can't fire with that lock in there?

A No, ma'am.

Q What did you do with the items, the DNA swabs, the GSRs, and the gun, and the other items collected at the scene? What did you do after evidence?

A While in the chain of custody, put them into evidence. They were submitted into evidence for evidence at a later time for

keeping -- safekeeping or storage. As an investigator to the case officer, I requested the different items to be processed by the different labs.

Q Okay, after you processed, what did you do?

A After I processed?

Q After you processed the items, swabbed them and submitted them?

A I did a request for all the items to be tested.

Q Did you continue with your investigation?

A I continued to interview witnesses.

Q Okay. And, ultimately, got a warrant for the Defendant?

A Based on the statements provided by Mr. Polite and his attorney, based on the statements provided by the witnesses, I obtained an arrest warrants for Mr. Polite.

MS. MOLINA: Court's indulgence.

THE COURT: All right.

BY MS. MOLINA:

Q I have no further questions. Please answer any the defense may have for you.

THE COURT: Cross-examination.

MR. LEE: Thank you, sir.

**

CROSS-EXAMINATION

BY MR. LEE:

Q All right, you're the lead investigator, right --

A Yes, sir.

Q -- in the case?

A Yes, sir.

Q So the buck stops here, you kinda know everything is going on, everything kinda goes through you, right?

A Everything mostly, yes, sir.

Q The good, bad and the ugly, right?

A Yes, sir.

Q Okay. So any reports that were done by other officers, any real evidence is gonna, essentially, come through to you, so that you can look at the case, and you can scrutinize it and see what you need to follow-up with, etcetera, right?

A Yes, sir.

Q Okay. Was that done in this case?

A Yes, sir.

Q Okay. So there's some things that might have been done that you didn't do personally, but you -- they were given to you, you collected them, you analyzed them, you put the big puzzle together, right?

A Yes, sir.

Q All right, this right here, which is State's 19, had you previously identified that for -- I'm gonna let you look at it. Seronka found that, right?

A Staff Sergeant Seronka located it.

Q Okay, and she's the one that went to the hospital and went to -- and got the clothes and stuff, and then went back to the scene, right?

A Yes, sir.

Q Okay. So you've seen that before, right?

A Pictures, yes, sir.

Q You never seen the real thing?

A It was submitted into evidence.

Q But you --

A I don't pull -- I didn't pull it out of the evidence --

Q Okay.

A -- bag.

Q But does that appear to you to be a boxcutter?

A It is a black and white boxcutter.

Q Okay, and it's your understanding that that was found in Anthony Rivers' pants?

A In his pants pocket at the hospital.

Q At the hospital?

A Yes, sir.

Q Okay. Let's talk about those pants a little bit. Did you have a chance to look at the pictures, or look at the actual pants he was wearing?

A I looked at the pictures of the pants.

Q Okay. It appears that the pants are a size waist 40; is that consistent with what you saw or observed? Does it look like that's what it is, kinda big pants?

A I didn't look at the size.

Q You didn't look at what?

A I didn't look at the size.

Q Okay. So you don't know how big the pants were?

A No, sir.

Q Okay.

Did you see that he had kinda like a shoestring or belt that was holding them up?

A Yes, sir.

Q Okay.

In looking at the pictures and stuff, do they appear to be very baggy to you?

A Yes, sir.

Q And, apparently, being held up by a shoestring, or something like that?

A Yes, sir.

Q Okay. And the autopsy indicates that Mr. Rivers was 5'9" and 187 pounds.

Does that sound consistent with what you observed? I know you're not an expert or anything, but I mean does that look consistent with what you observed?

A Yes, sir.

Q 5'9", 187, he probably doesn't wear a size 40 pants, does he?

A Likely not.

Q Okay, all right. And a lot of the fashion and stuff is wearing those baggy pants, right?

A I --

MS. MOLINA: I would object.

MR. LEE: I'll withdraw that.

BY MR. LEE:

Q There's some testimony about his pants falling down at some point, right?

A Yes, sir.

Q Have you heard that?

A Yes, sir.

Q All right. Do you know why his pants fell down?

A It was during the physical altercation and restraint, at some point the pants fell down.

Q Okay. There's a couple ways that can happen, pants falling down, right?

A Gravity.

Q If your pants are baggy and you have them tied with a shoestring, and you put something that weighs as much as that, could that cause somebody's pants to fall down?

A I mean --

Q If you put this in your pocket right now, would you feel the weight of it?

A You could feel the weight.

Q Okay. All right, you said that when you -- that night when you first went out there,

that you did a canvas down Keystone Drive; is that right?

A Yes, sir.

Q Tried to talk to some neighbors, right?

A Yes, sir.

Q How close to the neighbors live to 10 Keystone Drive?

A 50 yards maybe.

Q So it's not a densely populated street?

A It's not.

Q Okay, so you started going up 50 yards, and went to 8 Keystone, and then went to 6 Keystone Drive?

A No, it's not like that.

Q Okay.

A It's Keystone Island Road, and all, where the intersection is. We're looking for even if they heard something, saw something, vehicles, because that night we were being told nothing.

Q Right because you had to start canvassing the neighborhood 50 yards plus away for people that might have seen something, might have heard something, because that night Alexis Smalls, who lives there, and Arthur Washington,

you talked to them, right?

A Briefly.

Q Okay. And those are the ones who were on the 911 call we heard earlier, right?

A They were.

Q Okay, and they repeated the story again, that they were inside and didn't -- only heard a gunshot and ran outside, right?

A Yes, sir.

Q Don't know nothing about nothing?

A That's -- yes, sir.

Q Okay. And Alexis Smalls even said that Pumpkin --

MS. MOLINA: Objection. He's -- may we approach?

THE COURT: If you want to stand up and stretch, you're welcome to.

(Bench conference.)

THE COURT: A five-minute recess, ladies and gentlemen. I'll ask you to retire to the jury room, and remind you it's too early, again, discussing the case.

(Jury exits the courtroom.)

BAILIFF: The jury's cleared, Your Honor.

THE COURT: You'all want to take a break and then do this, or do you want to do it now? Objection

MS. MOLINA: I objected on the basis of hearsay. The testimony that Mr. Lee is attempting to elicit is that Alexis stated Pumpkin and Banger were inside the house during the incident, and that Alexis told that to Investigator Byrd. Alexis had not testified. Banger and Pumpkin did testify.

Mr. Lee is attempting to offer what Alexis has said for the truth of the matter asserted, that they were inside and not outside, and, therefore, they could not have seen anything, to later impeach their testimony but through Investigator Byrd.

THE COURT: Mr. Lee?

MR. LEE: He testified that he spoke briefly with Arthur Washington and Alexis Smalls when he got there, and then he began to canvas Keystone.

My position and my argument is that instead of canvasing down Keystone, why wouldn't you talk to the witnesses who were there, which include Banger, Pumpkin and Art, and if he

learned the identity of those people from Alexis Smalls right then. And for some reason these people were never talked to, and I think I'm entitled to get into the investigation and the priority that was given to talking to certain people, and not talking to certain people.

MS. MOLINA: I believe that Alexis identified them by their nicknames, Pumpkin and Banger, so he didn't know their identity at the time.

THE COURT: Well, I don't know.

MR. LEE: Well, he could ask her, Banger? Banger, who's Banger?

THE COURT: Wait a minute, that's different than the way we started out this objection. This objection had to do with what did so and so tell you; isn't that right?

MS. MOLINA: Yes, sir.

THE COURT: But that's not what you told me a minute ago just now that you were gonna ask him. You were going to criticize his failure to follow through and investigate, which is different than tell me what Billy Bob said to you.

MR. LEE: I mean do you want me to

rephrase it saying, "That night didn't you receive information that Banger, Pumpkin and --

THE COURT: No.

MR. LEE: -- were in the house?

THE COURT: No, I thought you were going to -- earlier when we were just talking a moment ago, you didn't say that. You said you wanted to criticize him for not getting the names of all these people.

MR. LEE: No.

THE COURT: Right?

MR. LEE: Well, he got the nicknames, but he didn't follow-up.

THE COURT: I understand and that's a good question.

MR. LEE: All right.

THE COURT: That's not hearsay.

MS. MOLINA: And he can ask, did you get names of people that were there? The part that matters is in the house, where they were, because he even said in his last argument that Alexis said, "Pumpkin and Banger and Art were in the house." And then to backdoor it to argue that Alexis, Pumpkin and Banger said they were outside.

The homeowner who said she didn't see anything, because she was in the house, said that Banger and Pumpkin were with her too. Therefore, you can't believe what Banger and Pumpkin testified today. He can ask did he get names of people? Did he talk to eyewitnesses on-the-scene --

THE COURT: Right.

MS. MOLINA: -- but not where they were, and where somebody else has put them.

THE COURT: Not what somebody else said about them. All the other criticisms of the investigation was questions I think are valid.

MS. MOLINA: Because we don't even know if Pumpkin and Banger know that Alexis said they were in the house.

MR. LEE: I guess I see that.

MS. MOLINA: Alexis could be the liar, and that has no bearing on Pumpkin's and Banger's testimony here today. The appropriate question would be to Alexis, not to Investigator Byrd.

THE COURT: Okay, well, I think we've ruled, have we?

MR. LEE: Okay, so it sounds to me like

I can't ask him who told him that, and I can't ask him --

THE COURT: Whoa, whoa, whoa.

MR. LEE: -- what --

THE COURT: Who told him anything.

MR. LEE: Right. I can't ask him who said it, but I can -- and I can't get into Alexis said those three were in the house, but I -- my understanding is, I can say immediately or pretty soon that night you got the names of 3 potential people that were at the property, Banger, Pumpkin and Art.

MS. MOLINA: I think that's fine, as long as that's as far as it goes.

MR. LEE: Well, the follow-up to that is, without saying who said it is, what did you do that night to figure out the real names of Banger, Pumpkin and Art. That goes to his investigation, I'm not offering it for the matter asserted, I'm trying to say, why did it take so long, and why were these people allowed to leave.

MS. MOLINA: And I think that's a fair question on cross-examination, you learned these nicknames, what did you do to identify these

people by their nicknames that night, not Alexis said Banger, Pumpkin and Art were in the house.

MR. LEE: Okay, well, I'll save that for Alexis.

THE COURT: I agree.

MR. LEE: All right.

THE COURT: So the motion is sustained. Let's take five minutes.

MR. LEE: Thank you.

(Recess)

**

PROCEEDINGS CONTINUED

BAILIFF: The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

THE COURT: Welcome back, ladies and gentlemen, and I believe we're ready to resume cross-examination of the witness.

Mr. Lee.

MR. LEE: Thank you, Your Honor.

**

CROSS-EXAMINATION CONTINUES

BY MR. LEE:

Q All right, I'll take you back to where we were. You'd just arrived at the scene that

night, right? That's where I want you to kind of start, okay?

Upon getting there, shortly after you got there, isn't it true that you obtained 3 names as people that were present?

A Yes, sir.

Q Banger, Pumpkin and Art.

A Yes, sir.

Q Okay, all right. What did you do to find out their real names?

A Well --

Q Because, obviously, that's not their real names; is it not?

A No. Submitted nicknames to BCSO Intel Division. I started looking up old reports for any reference of markers.

Q But it took a few days to figure it out, right?

A Yes, sir.

Q All right. But there was no follow-up question when those names were provided, or a follow-up question to that person saying, "Who's Banger, who's Art, who's Pumpkin," right?

A I don't recall if there was a follow-up question on that. That information was not

obtained on those names.

Q It actually wasn't until June 1st that I guess you got an anonymous call telling you who Banger was?

A Yes, sir.

Q And that's shortly after your interview with Mr. Moss and Stephan; is that right?

A Yes, sir.

Q You would agree just speaking about the investigation, you're probably gonna get more information from eyewitnesses than canvassing the neighborhood, right?

A Yes, sir.

Q Okay. And the day that you met with Stephan and Mr. Moss was June -- I guess you'd heard from them on March 31st, which was Monday, and you met with them the next day, correct? Does that sound right, March 31st?

A March 31st, or -- I'm sorry May 31st.

Q Which is Memorial Day.

A Memorial Day. And then we met with them on June 1st at 0952.

Q Okay, and they reached out to you, right?

A Well, Investigator Duncan and I were in

Richmond Hill, and we had made contact with the grandmother of Mr. Polite at her residence, who was on the phone with Mr. Polite's mother. As soon as we -- they said that they would have Mr. Polite get in touch with us, and we left, then Mr. Moss called shortly after, called Investigator Duncan.

Q Minute later probably?

A Momentarily.

Q Okay. Also included in the statement that Ms. Molina went through, that you somewhat summarized, but also was some information given to you by Moss and Stephan, that Sherard or Rod Johnson was coming to pick up Anthony Rivers, right?

A Yes, sir.

Q All right, and it appears, based on the investigation, that -- did you confirm that Sherard Johnson was going to pick him up?

A I had another party that was interviewed that --

Q All right.

A -- stated the same.

Q And it appears that Sherard Johnson's car was the one that was coming on Keystone,

that had clogged up the turn, right?

A That was entering --

Q Yes.

A -- as Mr. Polite was leaving.

Q Right. And isn't it true that part of your investigation you're also able to confirm that, in fact, it was Stephan Polite who called Rod Johnson, asking him to please come get Anthony Rivers?

A That is what one of the witnesses --

Q His mom said that.

A -- confirmed --

Q Johnson's mom said that.

A Johnson's mom did --

Q Okay.

A -- confirm that.

Q Okay. Which makes it probably even a little more sad that he's trying to get him a ride home, and then he's almost there, right?

A The whole situation is sad.

Q So would you visit -- would it be safe for me to characterize Stephan, when he came over there to talk with Mr. Moss, as being cooperative? I mean he came to talk to you, right?

A He did come with his attorney.
Q He did not have to?
A He did not have to.
Q And he gave you information about the case?
A He did.
Q Information that you either didn't have, or hadn't quite gotten yet?
A He furthered the investigation.
Q He also provided you access, he didn't have to, provided you access to let you do a once over on the car, right?
A He did make available to be here.
Q And made it available the next day?
A We seized the vehicle with a search warrant and towed the car to impound.
Q But he agreed to it, so I mean either way, right? A consent order or search warrant, either one, right?
A Yes, sir.
Q And so that was on June 2nd --
A Yes, sir.
Q -- or the next day? All right, and also provided the gun to you, Stephan did, right?

A Yes, sir.
Q And he didn't have to do that?
A He did not have to make it available.
Q Okay. And so there are -- on the 29th, would you say was just four days in between the incident and when you got the car, and when you got the gun, approximately, 30, 31, 30?
A Yes, sir.
Q So when there were fingerprints on the doorhandle, or DNA on the doorhandle on 5/29, we don't know on 6/2 whether that DNA would still be on the doorhandle, do we?
A I can't state that.
Q Well, there's no way to know, is there?
A There's no way to know.
Q Do you know if it rained any that weekend, or the car went through the carwash, or anything like that?
A I do not.
Q Okay. And I know you're not a DNA guy, but is the absence of DNA on a doorhandle it doesn't really prove anything, does it?
A I -- it doesn't.
Q Now, if there was DNA on there, somebody's got to explain how their DNA got on a

certain place, right?

A Yes, sir.

Q All right, the gun that you got, whatever it is, as part of your investigation you run -- you had an ATF gun trace put on that gun, right?

A All the firearms that we seize, our Evidence runs the ATF trace.

Q And you did that in this case

A There was an ATF trace.

Q Okay, and the trace came back that Stephan Quinton Polite purchased the gun on August 3rd, 2010 from the Port Royal Gun & Pawn, right?

A Can I see what you're referring to?

Q (Indicating).

A It does identify Mr. Polite as the purchaser. The purchase date was August 3rd, 2010.

Q Okay.

A And it was purchased from Port Royal Gun & Pawn.

Q Okay. And the reason you search these things is to make sure the gun's not stolen for example, right?

A We search it for a variety of reasons, yes, sir.

Q To make sure it wasn't used in some crime that you have some information on and it comes back to that, right?

A That's one of --

Q Okay.

A -- a few things.

Q Okay. And all that stuff came back, it showed he owned it, it didn't come up hot, stolen, didn't show up it was used in some other crime, right?

A The ATF trace wouldn't tell us if it was used.

Q Okay, yeah. What is Officer Seronka's rank?

A She was a Sergeant at the time, she's now a Staff Sergeant.

Q Staff Sergeant.

A That's correct.

Q Her testimony included testimony that she wanted to go look in that shed. Are you familiar with what she's talking about?

A Yes, sir.

Q Okay. To this day has anybody from

Beaufort County Sheriff's Office, that you know related to this case, been inside that shed?

A No, sir.

Q Did anybody ever attempt to get a search warrant to go in that shed?

A It was discussed.

Q It was discussed, okay, but nobody's gotten a search warrant?

A No, sir.

Q Everybody who was going in there, nobody's taken pictures or anything like that?

A No, sir.

Q Okay. And the reason you had to get a warrant, again, is because the owner of it wouldn't consent that night to have law enforcement go in, right?

A Yes, sir.

Q Is your job easier or more difficult when witnesses do not cooperate?

A It's a lot more difficult.

Q Does it take extra time to -- on investigations, if you have to track down leads that could have been tracked down much easier through the information being provided?

A Of course.

Q And the only way you found Natasha Robinson on June 2nd was because you had received some tips or --

A Yes, sir.

Q -- Facebook, or something like that?

A Yes, sir.

Q And the only way that you got to Pumpkin was anonymous tips?

A Pumpkin was -- conversations with other law enforcement officers. Typically, when we get these nicknames, we kinda bounce them off of everybody, to see if anybody knows them, and also any, you know, people that we come across that we're investigating is we're saying, "Hey, do you know who this is?"

Q And so within the next several days of this happening, you kind of had a general idea of what went down, in general terms, at Keystone, right?

A We had a basic foundation of understanding.

Q And so it contained pretty -- evidence early on there was going to be a question or evidence about Anthony Rivers being shot right beside Stephan Polite's vehicle, right?

A Yes, sir.

Q And there was gonna be a real question, or there was evidence connected to just that he was trying to get inside the vehicle, that was part of the information you received, right?

A From Mr. Moss, yes, sir.

Q Okay. Now, you'd also kind of heard I think early on about some of the -- and I'll use the word crazy behavior of Anthony Rivers; that was pretty consistent with everybody's recollection, wasn't it?

A Yes, sir.

Q And it was early on pretty consistent that it appeared to be inconsistent with everyday Anthony; do you agree with that?

A Yes, sir.

Q All right, so based on that, was it your decision or someone else's to order a toxicology screen on Anthony Rivers?

A That was someone else's decision. That would have been done at autopsy or the Coroner.

Q Okay, and a toxicology screen, of course, you test blood and/or urine to determine what substances, if any, someone may have in their body, right?

A My experience with toxicology that's true and accurate.

Q All right. And a toxicology screen was done in this case

A It was.

Q And that was provided to you as lead investigator?

A It was provided through the Coroner's Office.

Q I don't know.

A My experience is toxicologies are synonymous, especially for autopsy, a toxicology is done, along with the forensic pathology.

Q And in a lot of cases it doesn't really matter what somebody did or didn't have in their body?

A There are.

Q Sometimes it matters, sometimes it doesn't?

A Yes, sir.

Q In this case a toxicology screening was done.

A It was.

Q And alcohol, marijuana and methamphetamines were found in the system of

Anthony Rivers, right?

A Yes, sir.

Q Okay, and the amount of alcohol that was found in his system, according to the printout, is 0.316.

MS. MOLINA: I would object. This is not the appropriate witness to ask these questions.

MR. LEE: About a toxicology screen?

MS. MOLINA: It's just not the appropriate witness.

THE COURT: Well --

MS. MOLINA: Investigator Byrd only knows what the report says, and he doesn't have any further knowledge than that.

THE COURT: The toxicology report is in evidence?

MS. MOLINA: No, sir.

MR. LEE: I don't know if she's planning on getting that in. He was the lead investigator.

THE COURT: And he said he didn't do it. I mean he didn't order it or do it.

MR. LEE: It's part of the investigation. He also testified that --

MS. MOLINA: And I don't object to Mr. Lee putting it in, but I didn't put it in.

MR. LEE: Okay.

MS. MOLINA: Putting it in, I don't think he's the right witness to ask those questions.

THE COURT: I think your argument is this witness could only just read what's there.

MR. LEE: Well, he also extensively used it as part of his investigation. He said he took the statements from the witnesses and the other information, when he decided to get a warrant. So I want to know if this was considered in getting a warrant.

THE COURT: Was the toxicology report considered by him?

MR. LEE: Yes.

THE COURT: Yeah. No objection?

BY MR. LEE:

Q Do you consider the toxicology report of the victim, showing those findings to be something that should go into the investigation and the approach, as to whether you get a warrant?

A Are you asking my opinion, or --

Q Well --
A Can I see the toxicology that --
Q Yes, sir.
A I mean you're referring to the toxicology report.
Q Yes. Sorry. Was that part of your investigation?
A That was the toxicology report received.
Q Was it part of the investigation? Something you looked at and considered?
A I wasn't considering that report, it was finalized on June 24th up in the left-hand corner.
Q Okay, report issued 6/24/21.
A Yes, sir.
Q Well, I would say once you get a warrant there's still an obligation to test facts as you continue to investigate --
A Yes, sir.
Q -- these cases?
A And when we received the report it was put into evidence, as well as the autopsy report.
Q All right. And, again, the findings

indicate alcohol, methamphetamines and marijuana in his system?

A Yes, sir.

Q And it lists the amount of alcohol?

A It was a lot of numbers.

Q The listed amount of alcohol is .316.

A Correct.

Q Right?

A As of -- yeah, his blood alcohol content.

Q Okay, .316. You've done DUIs before; have you not?

A Yes, sir.

Q The legal limit in South Carolina to drive a vehicle is .08, correct?

A Correct.

Q So this is almost 4 times what the legal limit in South Carolina is for a DUI, correct?

A Correct.

Q Okay. Does the Sheriff's Office have any policy, as far as what the number has to be, in order to take a suspected drunk driver to the hospital for medical treatment? Do you have a number?

A So my recollection, there is a standard, but I don't recall that standard. It's been since '18 --

Q Okay.

A -- that I've been on the road. 2019 I was on the road.

Q Is it safe to say almost four times the limit in this case?

A It is. It is.

Q Do you have any type of experience as an officer running for 15 years with people who have a blood alcohol level that high?

A I started October, 2015.

Q Oh, okay, sorry.

A I don't have 15 years' experience yet.

Q Have you experienced people that drunk?

A I've experienced people with high levels of alcohol concentration.

Q Have you experienced people on amphetamines?

A I have.

Q Marijuana?

A Yes, sir.

Q Have you ever experienced someone who has all 3 of them at the same time in their

body?

A I wouldn't be able --

Q You wouldn't know?

A No, I wouldn't be able to tell you.

MR. LEE: That's all I have.

MS. MOLINA: Nothing further.

THE COURT: Thank you, you may step down.

WITNESS: Thank you, Your Honor.

THE COURT: You may call your next witness, Solicitor.

MS. MOLINA: The State calls Timothy French.

TIMOTHY FRENCH,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. MOLINA:

Q Good afternoon, where do you work?

A I work for the Beaufort County Sheriff's Office in the Forensic Services Laboratory.

Q And what do you do in the laboratory?

A I'm a forensic DNA analyst, so I test biological samples that come from crime scenes.

THE COURT: Why don't you ask the witness' name?

BY MS. MOLINA:

Q What's your name?

A Timothy French.

THE COURT: Okay.

BY MS. MOLINA:

Q What kind of schooling do you need to work in the lab? Where did you go to school?

A I have a Bachelor of Science degree from the State University of New York at Syracuse. I have a major in biology and minors in chemistry and math.

Q And what did you do after school?

A After school in forensics I worked for nine years at the Syracuse Police Department in Crime Laboratory. After that 10 years at the Charlotte-Mecklenburg Police Crimes Laboratory in Charlotte, and I've been here for just over 16 years.

Q And what kind of training do you do, or continue to do?

A I've attended specialized courses, and the first being conventional forensics serology at the FBI Academy in Quantico, Virginia. A

course in blood stain analysis system at the Serological Research Institute from San Francisco, and Advanced DNA training at Marshall University in West Virginia.

Q And have you ever been qualified as an expert?

A Yes, ma'am.

Q How many times?

A In DNA 30 times.

MS. MOLINA: At this time, the State moves to qualify the witness as an expert in forensic DNA analysis.

MR. LEE: Absolutely, no objection.

THE COURT: The motion's granted.

MS. MOLINA: Thank you, sir.

BY MS. MOLINA:

Q People are familiar with DNA, but can you tell us what it is and how you test for it?

A DNA's a molecule that's found in all the cells of your body. It makes us human, but it also makes us unique. We test for it by -- we can either look through items for stains, biological stains, such as blood, semen and saliva.

We have cells that have DNA, but we can

also do what's called touch DNA, which is where someone comes in contact with a surface, they leave behind some skin cells, we can extract DNA from that as well.

Q And are there lab and quality control standards that you have to follow?

A Yes, there are.

Q And what are those?

A We have procedures in the lab to keep the areas that we work in clean, sterilized between different items. We never have suspect and victim items in the same room at the same time. We also run control positive/negatives with all the different steps of the process.

Q And do you know about how many cases you analyze working in the lab? Hundreds?

A Yes, hundreds, thousands, yeah.

Q Did you receive items related to this case for testing?

A Yes, I did.

Q And other than testing these items, did you alter or change them in any way?

A No.

Q I'm handing you items that have been previously identified, and so I'm handing you

item number 19, 20, 42, 45, 46, 48 and item numbers 37 and 38. And can you just look through those items and tell me if you recognize them?

A I do.

Q And how are you able to recognize them?

A These are the items that I tested in this case. I can tell by the identifiers on the bag, and also the -- when I receive the items, they're sealed by the person who put them in there. I cut the bag and the envelope open, in order to get to the evidence that's inside. When I finish, I seal it back up and put my initials and date on it.

Q Okay, and do you accept items that have a broken seal or are not sealed?

A No.

Q And all of these items came to you sealed?

A Yes, they did.

Q At this time, and other than testing, you didn't alter it in any way?

A No.

MS. MOLINA: State moves State's Exhibit 19, 20, 37, 38, 42, 45, 46 and 48 into evidence.

MR. LEE: No objection.

THE COURT: Motion is granted.

(State Exhibits 19, 20, 37, 38, 42, 45-46 and 48 were admitted into evidence.)

BY MS. MOLINA:

Q Starting with item number 37, can you tell us what that item is.

A This is a firearm that was turned in for testing.

Q And what was your conclusion as to that item?

A I tested it for the presence of blood, and I got a positive on the screen test, and then I analyzed the blood, and obtained a DNA mixture.

Q And what was your conclusion as to the victim for the DNA mixture in item 37?

A The victim could not be excluded, so there was a screening match.

Q And what was your conclusion, as to item number 38?

A 38 is a plastic bag. On that one I was gonna test it for the presence of blood, and got a positive result, and on that a DNA profile was obtained, and that also had a DNA match to the

victim.

Q And as to number item 19?

A 19 is the boxcutter. That was -- I tested for the presence of any blood, and it was negative.

Q Okay.

A And the DNA that I got, I swabbed two different areas of the boxcutter blade and the handle separately, and I didn't get enough DNA to do anything with that.

Q What was your conclusion as to lab item number 7 and can you tell us the exhibit number on that?

A 7 is packaged with items 7 through 12, and that is all State's Exhibit 42.

Q Okay. What was your conclusion as to item number 7?

A 7 there was no DNA recovered from that.

Q And what is that a sample of?

A It's a swab of driver door exterior.

Q What was your conclusion as to item number 8 relating to the victim?

A There was DNA mixture on number 8, that is the swab of the driver's door, exterior handle, and the victim was excluded from that

mixture.

Q Okay. And what was your conclusion as to lab items 9 and 10?

A 9 and 10 were also swabs of -- from the vehicle, driver door exterior window, driver's side B pillar, both of them had no DNA recovered.

Q What was your conclusion as to lab item number 11?

A 11 is swab of the driver's door interior, and I did get some DNA -- or I did get some DNA on that. It was not enough to work with.

Q And your conclusion as to lab item 12?

A 12 is a swab of the left rear passenger door, exterior, and it had no DNA.

Q Moving onto lab items 13, 14 and 15, which I believe are packaged together?

A Yes, that is State's Exhibit 45.

Q And as to the victim, what is your conclusion?

A There were mixtures on all 3 of those items, and the victim was excluded from those.

Q And what were those items?

A They are the swab of the grip area, the

glide and the trigger housing.

Q What was your conclusion as to item number 16 --

A 16 --

Q -- related to the victim?

A That's State's Exhibit 46, that is swab of magazine. There was a mixture on that item as well, and the victim was excluded.

Q You mentioned insufficient quantities of DNA. What could result in an insufficient quantity of DNA?

A There's not enough DNA there in the first place.

Q How does that happen?

A DNA -- touch DNA is kind of like fingerprints. You know, somebody could touch something and not leave a fingerprint behind. They could leave a partial fingerprint, you just can't see the whole thing.

So DNA is like that, you can leave a little bit of DNA, depending on how much DNA you shed, how much you touched it, how long you touched it, and the environmental factors.

Was there -- was the item left outside? Was it raining? Was it hot, humid? Things that

could degrade or wash away the DNA.

Q So there's many reasons why DNA may not be on an item or insufficient for testing?

A Yes.

Q As to -- when you talk about --

MS. MOLINA: Sorry, Court's indulgence.

BY MS. MOLINA:

Q When you were talking about the presumptive positive for the victim, how did you get that profile? Did you have a standard to compare it to?

A Yes. Sometimes it matches compared to the victim's standard, yes.

Q And is that the buccal swab --

A Yes.

Q -- that you received as --

A As State's Exhibit 1.

Q And as to lab item number 1, 2 and 3, what were your conclusions as to the victim?

A 1, 2 and 3 --

Q And what are they?

A -- are -- that's State's Exhibit 48. They are a swab of the victim's face, a swab of left hand, and swab of right hand. The swab of the victim's face there's a mixture.

The left hand and the right hand were DNA profiled, which was not a mixture, just one person. And the victim had a preliminary match to all of those two victims.

MS. MOLINA: The Court's indulgence.

BY MS. MOLINA:

Q Related to the Defendant, were you able to get any presumptive positives on any of the items for him?

A Screen matches you mean?

Q Yes, sir.

A Yes.

Q On which items?

A I have preliminary matches to the Defendant on items 8, 13, 14, 15 and 16, that is driver door exterior, the grip, slide and trigger and the magazine.

Q I have no further questions. Please answer any that the defense has.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MR. LEE:

Q What was the last screening that you said?

A I'm sorry?

Q What was the last screening that you said?

A The last item or the last item?

Q Yes, the last item.

A The magazine.

Q Okay. Mr. French, as the guy in the lab, you're kind of at the mercy of what comes into you, right? I mean, what's swabbed on the outside comes to you.

You're kind of at the mercy of what they actually swab onto the Q-tip, for lack of a better word, right?

A That's correct.

Q Okay. So if the swab isn't done correctly or in the right place, you can't help that, you don't know that, do you?

A I do not.

Q Okay. And there are swabs that were submitted from my client's car, the keypad on the door, for example.

No DNA was recovered from the keypad on -- to get into his door, right?

A That's correct.

Q Okay. So that either means it wasn't

there, or it wasn't swabbed correctly? If it was on there, environmental factors, etcetera, may have made it go away?

A That's correct.

Q The person that touched it may not be a shedder and may not leave DNA, correct, or a non-shedder?

A Shedder is just a measure of how much DNA you leave behind. I don't think somebody could touch something and never leave DNA behind, it just --

Q But --

A -- may not be detectible.

Q But it can be gone pretty quickly, and it can get destroyed, it can get compromised, it could rain, go through a carwash, right?

A That's correct.

Q Okay. So there's several swabs that were taken from this vehicle that Mr. Polite owned, when there was no DNA at all recovered that came back to you, right?

A That's correct.

Q All right. There was a mixture obtained from the exterior door handle, which you were able to exclude you say Anthony Rivers,

correct?

A That's correct.

Q Okay. So these swabs were taken possibly four days afterwards. The fact that there's not Anthony Rivers' DNA showing up in your test doesn't -- you can't say whether he touched it there or not, can you?

A No.

Q Okay. He could have touched it and it washed away, or got compromised, right?

A It's a possibility, yes.

Q He could have touched it and it wasn't swabbed in the right place, and you get no DNA, right?

A That's correct.

Q Okay. He may have not left much DNA on the door handle on that, right?

A Correct.

Q So the fact that someone's DNA is not on something you can't say that that means that they did not touch the thing?

A No, I cannot.

Q Thank you, that's all I have.

MS. MOLINA: No redirect.

THE COURT: All right, thank you, sir,

you may step down.

MS. MOLINA: May we approach?

THE COURT: You may

(Bench conference.)

THE COURT: Ladies and gentlemen, I am informed that that's the last witness available today. From what I understand, some more witnesses will be available in the morning, beginning at 9:30.

Before I let you go, I'm gonna ask you to do something for me though. Either before you leave today, or when you come back in the morning, can you select a Foreperson to represent the jury? It can be anybody except one of the alternate jurors.

And I'll remind you, don't let anybody talk to you about the case, you don't talk to anybody among the case, even amongst yourselves. 9:30 in the morning, is that gonna be a problem with anybody?

See you in the morning, ladies and gentlemen, you're excused.

(Jury exits the courtroom.)

BAILIFF: The jury's cleared, Your Honor.

THE COURT: Nothing we need to do tonight, we can finish up tomorrow maybe, depending on what happens.

See you'all at 9:30 in the morning.

MS. MOLINA: Yes, sir.

MR. LEE: Thank you.

MS. MOLINA: thank you.

(At 4:11 p.m., the proceedings were continued until the following day without interruption.)

**

END OF VOLUME II

CERTIFICATE OF REPORTER

***

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 16th Day of April 2024.

I do further certify that I am not related, of counsel, or interest to any party hereto.

This, the 1st day of September 2024.



_____

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	IN THE GENERAL SESSIONS COURT 2021-GS-07-00981, -982
State of South Carolina Plaintiff, vs. Stephan Q. Polite, Defendant.	TRANSCRIPT OF JURY TRIAL VOLUME III PAGES 447 - 654

April 17, 2024
Beaufort, South Carolina

B E F O R E:

The Honorable **BROOKS GOLDSMITH**, Judge Presiding

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PROCEEDINGS

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WEDNESDAY, APRIL 17, 2024

BEAUFORT, SOUTH CAROLINA

***

(The following proceedings were held in open court. All parties were present.)

BAILIFF: The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

BAILIFF: The jury's seated, Your Honor.

THE COURT: Good morning, and welcome back, ladies and gentlemen. Hold on a moment. The Bailiff has passed the Court a note that I believe refers to the Foreperson of the jury, as being juror 153.

And would that be you?

FOREPERSON: Yes.

THE COURT: And the jury has selected you to serve as Foreperson?

FOREPERSON: Yes, Your Honor.

THE COURT: The Court agrees, a wise decision the jury made, thank you for serving. I believe that we are ready to resume with the

presentation of evidence by the State. Solicitor?

MS. MOLINA: The State calls Megan Fletcher.

**

MEGAN FLETCHER,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. MOLINA?

Q Good morning. Where do you work?

A I work at the South Carolina Law Enforcement Division in the Forensics Services Laboratory, in the Trace Evidence Department.

Q And what do you do in the Trace Evidence Department?

A I'm a forensic scientist in that department, so I analyze various types of evidence, such as fire debris, fibers, paint, glass, explosive, gunshot primer residue tape, and a couple other things.

Q Can you please describe your educational background and training to work in that position?

A Sure. I have my Bachelor's degree out of

Chatham College in Biochemistry and English. I also have my Master's degree from Marsh University, emphasizing in computer forensics and forensic chemistry. I also underwent training at SLED for each one of the disciplines in which I am deemed competent to perform analysis.

MS. MOLINA: At this time the State moves to qualify the witness as an expert in gunshot residue and trace evidence.

MR. LEE: No objection.

THE COURT: That motion is granted.

BY MS. MOLINA:

Q What is gunshot residue?

A The gunshot residue is everything that comes out of a gun when it's fired, smoke, soot, fragments of the bullet, fire, as well as gunshot primer residue, which is actually what we analyze at SLED.

Gunshot primer residue are microscopic molten particles that contain the elements, lead, barium and antimony. They come from the primer portion of a cartridge case and exit the gun out of the muzzle and other openings, such as an injector port.

It can get on your hands from being in the vicinity to the discharge of a firearm, coming into contact with something that has gunshot primer residue on it, or discharging a firearm.

Q And how do you test for it?

A Typically, a gunshot residue kit is used on the hands of an individual that is suspected to have been in the vicinity to the discharge of a firearm, or a shooting incident.

This GSR kit includes particle lifts, which are basically stamps with a sticky surface on it. And one is used to collect from the right hand of an individual, and one is used to collect from the left hand of an individual.

Q Can you collect gunshot residue from things other than a person?

A Yes, we can. We can collect it off of clothing, or vehicles, or other inanimate objects.

Q Is it -- is there a window of opportunity to detect the presence of gunshot residue?

A Yes. For a living individual the GSR kit must be collected within 6 hours of the time of the incident. And the reason for that is,

gunshot primer residue evidence is very easily transferred and removed.

I could shoot a gun, put that gun down, and I immediately start removing those particles by transference, such as putting my hands in my pockets, touching a steering wheel, washing my hands, or doing any other activity.

Q Did you receive items to be tested in this case?

A Yes, I did.

Q I'm handing you what's been pre-marked as State's Exhibit 55. Do you recognize that item?

A Can I open inside here?

Q Yes.

A Okay.

Q And inside is State's Exhibit 21 through 23, 43 and 44.

A I do recognize Exhibit -- or State's Exhibit 55, based on the SLED laboratory barcode sticker, with a SLED lab of 21-10965, container A, as well as my initials and date in which I accessed this envelope.

Q And do you recognize State's Exhibits 21 through 23 and 43?

A State's Exhibits 21, 22 and 23 are SLED items L21-10965, item number 2, item number 3 and item number 4, and those are GSR kits. And State's Exhibits 43 and 44 are SLED item numbers L21-10965, item number 6 and item number 7, and those are also GSR kits.

Q And are those the items that you tested?

A Yes, they were.

Q And other than testing those items, did you alter or change them in any way?

A No, I did not.

MS. MOLINA: State moves State's 55, 21, 22, 23, 43 and 44 into evidence.

MR. LEE: No objection, sir.

THE COURT: Motion is granted.

(State's Exhibits 55, 21-23, 43-44 were admitted into evidence.)

BY MS. MOLINA:

Q As to State's Exhibit 21, what were your conclusions?

A This is a GSR kit collected from Anthony Rivers, Jr., and I did not perform any analysis on this GSR kit, because it was collected from an individual who sustained a gunshot wound.

Q Why don't you perform an analysis on

individuals who have sustained gunshot wounds?

A Gunshot residue is mainly used to put somebody at a shooting incident. When somebody has sustained a gunshot wound, they've already been placed in the vicinity to the discharge of a firearm. So the analysis of a GSR kit from that individual doesn't provide any additional information to the case. I can't distinguish between GSR on a person's hands from sustaining a gunshot wound, versus them handling or also shooting.

Q Would it be able to tell you how far away the person was when they were shot from the gun?

A No, it doesn't. Gunshot primer residue travels with the bullet, so it actually travels a very long distance, outwards of 60 feet.

Q What was your conclusion as to State's Exhibit 22?

A State's Exhibit 22 is one GSR kit from Alexis Smalls. And on the particle lifts collected from this GSR kit, no particles characteristic of gunshot primer residue were detected.

Q And State's Exhibit 23?

A State's Exhibit 23 is a GSR kit from Arthur Washington, Jr. And the samples collected from his hands I collected one particle characteristic of gunshot primer residue, which is microscopic molten particle, containing the elements lead, barium and antimony, and it could have gotten on his hands from discharging a firearm, coming into contact that has gunshot primer residue on it, or being in the vicinity to the discharge of a firearm.

Q And what was your conclusion as to State's Exhibit 43, lab item number 6?

A State's Exhibit 43 is a GSR kit from the suspect vehicle, and no particles characteristic of gunshot primer residue were detected.

Q And State's Exhibit 44, lab item 7?

A State's Exhibit 44 is SLED item number 7, a GSR kit from a Mercury Grand Marquis, and particles characteristic of gunshot primer residue were found on this item.

It's the same particles that have lead, barium or antimony in them. The difference between a person with that 6-hour timeframe and an inanimate object, such as a vehicle, is that I can't tell you when those particles were

deposited on the vehicle surfaces.

Q No further questions. Please answer any questions the defense may have.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MR. LEE:

Q Did you come down from Columbia this morning?

A Yes, sir, I did.

Q Early morning, thank you for coming down here.

A You're welcome.

Q Real quick, to summarize. Law enforcement did a GSR kit on Anthony Rivers and sent it to you, correct?

A That's correct.

Q But you didn't analyze it, because they're saying, "Hey, he's the victim, he's gonna have GSR on him," right?

A That's very possible. About 80 percent of the time our victims have gunshot primer residue on their hands.

Q Gotcha. All right, and then also a kit from someone named Parker Washington was

submitted to you as well, right?

A That's correct.

Q And GSR was detected on the hands of Arthur Washington, correct?

A I found one particle characteristic of gunshot primer residue.

Q Which can mean a variety of things, that it was transferred to him, right?

A Correct.

Q He shot a gun?

A Correct.

Q He handled a gun?

A Correct.

Q Or he was in close proximity of a gun being fired?

A Correct.

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

THE COURT: All right. Thank you, ma'am.

**

REDIRECT EXAMINATION

BY MS. MOLINA:

Q How many particles of gunshot residue were found on State's Exhibit 44?

A State's Exhibit 44, the GSR kit from the Mercury Grand Marquis, I was able to confirm 9

particles of gunshot primer residue.

MS. MOLINA: No further questions.

MR. LEE: No further questions.

THE COURT: All right. You may step down, and you'll be excused from your subpoena.

WITNESS: Yes, sir.

THE COURT: You can call your next witness.

MS. MOLINA: The State calls Brian Malanio.

BRIAN MALANIO,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. MOLINA:

Q Good morning. Where do you work?

A Good morning. I work for the South Carolina Law Enforcement Division, commonly known as SLED.

Q And what do you do at SLED?

A I am a forensic scientist in the Firearms Department.

Q What kind of school or training do you need to work in the Firearms Department?

A I have a Master's of Science degree from

Syracuse University, and Forensic Science with concentration in firearms and impressions evidence. I also have a Bachelor's degree in biology also from Syracuse University. That's all of my education.

Q What additional training have you received, if any, related to firearms?

A So I began at SLED in September of 2020, where I began the SLED firearms course of instruction.

This involves bookwork, studying firearms components, aviation components, as well as looking at various specimens on a comparison microscope. And in October of 2021 I was accepted into the National Firearms Examiner Academy, or FEA. This is a federally funded training program sponsored by the Bureau of Alcohol, Tobacco, Firearms and Explosives in Maryland. I did this training over the course of nearly a year, where I worked with examiners from all over the country, doing various aspects of the job including microscope work, again, more bookwork.

I also toured manufacturers of firearms and ammunition all over the northeast. Then I also

completed mock case work, and then I testified in mock trials. I then graduated that Academy in September of 2022. I then continued the SLED course of instruction, and at the end of that I took a final written test. I also completed another mock case, and I also completed another mock court, and I was officially signed-off to do case work in August of 2023.

MS. MOLINA: The State moves to qualify the witness as an expert in firearms identification.

MR. LEE: No objection.

THE COURT: The motion is granted, and the witness is so qualified.

BY MS. MOLINA:

Q How do you become an expert in firearm identification? How do you identify the different kinds of firearms and what you receive?

A So in general firearms identification refers to looking at microscopic markings left on fired ammunition components, such as bullets or cartridge cases that are left at crime scenes, and determining if they were fired by a particular firearm.

Q Are you also able to tell whether or not

a cartridge came from a specific gun?

A Yes, I can.

Q And how do you do that?

A Whenever I get a case it's like I start by getting the evidence from our Evidence Control Department. I then compare what I received from the Evidence Control Department to what I'm supposed to get with submission paperwork, and I do a detailed inventory of what I have. Once I complete the inventory, I then look at the -- in this case a firearm. I test fire the firearm into a bullet recovery tank, which is like a water tank designed to capture projectiles. I recovered those test specimens, those test bullets and those test cartridge cases. I then put the tests onto the comparison microscope. The comparison microscope is two microscopes that are connected by an optical bridge, that can view two items simultaneously. I then compare the unknown or questioned cartridge case with the test cartridge cases that I fired myself.

Q And did you test items in this case?

A Yes, I did.

Q I'm handing you what's been marked as

State's Exhibit 36, 49 and 40. Do you recognize those items?

A I do recognize these items.

Q How do you recognize them?

A I recognize them by the engravings that I actually put myself on these items. In this case this is State's Exhibit 36, this is one fired cartridge case. I actually engraved the unique case number that this item was -- that this case was given, the unique item number that this item received, and my initials on the cartridge case. State's Exhibit 49, these are the test cartridge cases that I fired from the pistol in this case. This is a sealed envelope, and the seal is still intact with my initials and the date that this envelope was sealed. And State's Exhibit 40, this is SLED item number 5. I want to confirm that this pistol is unloaded, it's locked. I can go through the barrel, so at any time I pull the firearm it will be unloaded. And just like the cartridge case, I actually engraved the firearm with the unique item number, SLED lab number and my initials. The slide, the magazine well, and the barrel of the firearm.

Q Did you do those engravings after you tested?

A Yes.

Q And other than testing the items, did you alter or change them in any way?

A No, I did not.

MS. MOLINA: The State moves State's Exhibits 36, 40 and 49 into evidence.

MR. LEE: No objection.

THE COURT: Motion's granted.

(State's Exhibits 36, 40 and 49 was admitted into evidence.

BY MS. MOLINA:

Q What were your conclusions as to the items that you examined?

A I concluded that the State's Exhibit 36, SLED item number 1, a cartridge case, was fired by State's Exhibit 40, SLED lab number item 5, pistol.

Q And you did that through comparison on item number 39? Is it 39?

A State's Exhibit 36 is the cartridge case.

Q Okay. And you compared those with the ones you fired from the gun?

A Correct, yes.

MS. MOLINA: The State has no further questions.

BY MS. MOLINA:

Q Please answer any questions the defense may have.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MR. LEE:

Q And did you come down from Columbia today to --

A I sure did.

Q -- to answer questions?

A Yes.

Q Okay, good. All right, thanks for coming down here. A couple things, I know they come in different shapes and sizes. What's the average weight, approximately, of a handgun, in general? I know it can vary and stuff, but that gun, how much does that weigh, any idea?

A I'd give it approximately 2 pounds, 3 pounds maybe.

Q All right. And so your conclusion is that the casing that was found at the scene was

fired by the pistol that Mr. Polite provided to law enforcement, Number 40, right?

A I don't know where this pistol came from.

Q Okay.

A I didn't collect it myself.

Q Thank you.

MR. LEE: No further questions, and no objection to him being excused.

MS. MOLINA: No further questions.

THE COURT: All right, thank you, sir, you may be excused. You may call your next witness, Solicitor.

MS. MOLINA: The State calls Dr. Erin Presnell.

**

DR. ERIN PRESNELL,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. MOLINA:

Q Where do you work, Dr. Presnell?

A I'm a Forensic Pathologist at MUSC in Charleston.

Q What is a forensic pathologist?

A Well, I think most people are getting familiar with what a forensic pathologist is, but let's see, forensic pathology is a subspecialty of the general field of pathology.

So a pathologist is someone who diagnoses disease. I became a pathologist, but then I did subspecialty training in forensic pathology, so I'm not just looking at disease or like from a biopsy, or something that a surgeon's removed, I'm looking at an entire body of somebody that's passed, and I'm not just looking at disease, but I'm also looking at trauma, and that process is called an autopsy, and, ultimately, I am to determine cause and manner of death.

Q Can you please describe your education and training?

A Well, to get where -- to get to be a forensic pathologist, I went to college in Clemson, and then I moved to MUSC in Charleston for medical school, that was four years.

After medical school I chose pathology as my sub -- or as my specialty, forensics.

So I did my five years of general pathology training at MUSC. Then I stayed at MUSC for my year of forensic pathology, and then I stayed again as instructor, but I've been there since -- well, I've been on staff as faculty since 1999.

MS. MOLINA: State moves to have the witness qualified as an expert in forensic pathology.

MR. LEE: Absolutely no objection.

THE COURT: The Motion is granted, and the witness is so qualified.

BY MS. MOLINA:

Q Did you perform an autopsy on Anthony Rivers?

A Yes, I performed an autopsy on Anthony Rivers on June 3rd, 2021.

Q As part of your autopsy, do you take notes on a body diagram?

A Yes. So as part of an autopsy we take photographs, I do diagrams, mark the injuries on the diagram. After that I prepare for the autopsy report.

Q All right, I'm gonna show you what's marked as State's Exhibit 51.

Would this assist in your testimony in describing the findings of the autopsy?

A Yes.

MS. MOLINA: At this time, State moves State's Exhibit 51 into evidence.

MR. LEE: No objection.

THE COURT: Motion is granted.

(State's Exhibit 51 was admitted into evidence.)

MS. MOLINA: State moves to publish State's Exhibit 51.

MR. LEE: No objection.

THE COURT: Motion is granted.

BY MS. MOLINA:

Q Dr. Presnell, can I get you step down? I'm going to hand you two markers.

Can you describe the injuries that you observed to Anthony Rivers, Jr.?

A Yes. So Mr. Rivers had one major injury, and it's gonna be a shotgun wound to his chest. Then he had some minor injuries, which includes some scrapes on his arms, bruising on his knees, and bruising on his head.

So we'll just walk through those line-by-line. So he has one gunshot wound and it went

all the way through, so entered, then exited.

So it enters on his right chest. The bullet or the direction of the pathway is, obviously, from his -- well, not obviously, but from his front to his back, it's gonna exit on the back.

It's going a little bit from his right to his left, and a little bit downward. So it's not straight back, but it had some leftward direction, some downward direction. So it enters here, it exits like on the right back still, so this is right side, so it's exiting on the right back.

When it goes into the body it goes through one of the ribs, it goes through the liver. It goes underneath the left line, so it bruises it, but it doesn't actually cause any like laceration to it, and then it hits another rib before it exits the front, and that is going to be the fatal injury.

He also has, like I said, some scrapes or abrasions, as what we'll determine -- we'll phrase them as. He has a scrape on his left shoulder. He has a scrape on his left upper arm. Four scrapes along his left forearm. A

scrape on his right upper arm and right forearm.

And then, we color coordinated it, he has a bruise, I put some value, I'll look the black. He has a bruise on the right knee and two bruises on the head as well.

Q Did you -- other than the injury hitting -- from the bullet hitting the lung -- or the liver --

A The liver.

Q -- did you observe any other internal injuries related to the gunshot wound?

A Well, because the gunshot wound went through the liver, there was a lot of bleeding with that, and so there's about a half-liter of blood still in the abdomen.

Q Did you observe any stippling on the body?

A No. So one of the things that I'm doing when I look at the injuries, or in particular gunshot wounds is, try to see if I can differentiate whether this gunshot wound is a contact gunshot wound at close range, or a distant gunshot wound.

And the way that I do that is, to look to see if there's any soot deposit, not just when

the bullet comes out the end of the gun, but soot does as well original casing, that could exit the end of the gun as well and looks like little pieces of sand. And if the gun is close enough, then that sandy gunpowder will strike the skin and cause little scrapes, all right, I wouldn't be able to wash it off.

It looks like little scratches, and that is in close range. The gun is close enough where the gunpowder can still reach him and cause some injury.

Now, once you're beyond that, then neither that soot is gonna make it, nor is the gunpowder gonna make it -- a gunshot would without any markings around. In this case, it is a gunshot wound without any markings.

Q About how close does stippling --

A Well, the best way to figure that out is to fire the suspected gun with the suspected ammunition, to reproduce how far it traveled, the gun would have to be very close.

That being said, for the majority of handguns, once you're out to a yard, then neither the soot nor the gunpowder will make it to the skin.

So even a yard away could be -- a yard away and beyond could be a distant gunshot wound. I do have to point out that when he came to us, he did not have any clothing, so if somebody is wearing a shirt, sometimes that might take some of the debris, and it may not mark the skin, even if it was a close-contact wound.

Q But sometimes it can also mark through?

A Absolutely, absolutely.

Q Did you perform a toxicology analysis in this case?

A Yeah, that's standard on all of our forensic cases to run a toxicology for evidence of alcohol.

Q And do you do a blood or urine test or both?

A Well, the important part is the blood, because blood's gonna reflect -- whatever's in the blood is going to reflect what he has in his body, what's affected him at the time of the incident. We do some urine. A lot of times I -- well, I send it for backup testing, so in this case we sent both.

Q And is -- you say backup testing, is a substance being in the urine and not in the

blood?

A Well, I mean it doesn't pertain to this case, but with some drugs you can see some breakdown products in the urine, to help you interpret what's in the blood.

Again, not pertinent in this case, but that particular drug is not detected; however, some of the toxicology will do screening on urine and that helps me complete testing in the blood.

Q What were the results of the blood toxicology?

A So let's see, Mr. Rivers had some marijuana and some of its breakdown product, as well -- in his blood, and as well as an alcohol level of .316.

Q And that's all that was in his blood at the time that he was killed?

A At the time, yes. I'm sorry, caffeine as well.

Q And those would be the things that would be indicative of what he was under the influence of that night?

A Correct.

Q What was Anthony Rivers' cause of death?

A And from the liver injury due to a

gunshot wound.

Q And what was the manner of death?

A The manner of death is homicide, meaning in my medical and legal opinion for me it is death at the hands of another.

Q Thank you, I have no further questions. Please answer any questions the defense may have.

THE COURT: Cross-examination.

**

CROSS-EXAMINATION

BY MR. LEE:

Q Good morning.

A Good morning.

Q There was also methamphetamines in his urine; is that correct?

A That -- like I said, we sent urine, and I did a screening test on it, and it is positive -- it was positive -- presumptively positive for cannabinoids, which is the marijuana product, and amphetamines.

However, I will tell you I didn't include that in my autopsy report, because for two reasons, number one, it's urine, meaning that when it's detected in the urine, if you don't

see it in blood, it's not under -- he was not under the influence; and, number two, and probably more importantly, is that the urine screening is presumptive positive, meaning it's a screen test and they have not confirmed it, like they do -- like they did the drugs.

So it may be false/positive. Those two agents, the amphetamine and the cannabinoids, have not been confirmed in there.

Q Well, who confirms it? Law enforcement?

A No, the toxicology log would confirm it, if it was requested. Again, both the amphetamine -- marijuana was found in his blood, but there's no methamphetamines in his blood, and that would have been -- if it was there and tested positive, then they would have done confirmatory testing.

Q Was it sent for confirmation though, the urine?

A No, the urine is just used at screening, unless there's something specific that they're looking for.

Q And so you talked about the stippling, you said 36 inches. It could have been closer, because he's wearing clothes, right?

A Right. Well, it could have been closer even with the gun, but most guns 36 inches, and if he had clothing on, it could have been closer, yes.

Q What is the legal dose of alcohol?

A Well, it's variable. Most -- in general for somebody that's not really tolerant with that kind of alcohol, but with that kind of alcohol he might be tolerant to alcohol, around .4 or -- yeah, .4 is when the respiratory depression happens, and alcohol toxicity.

Q And this is .316, right?

A Yes.

Q So this is nearly 4 times what the entrance level is for driving under the influence, right?

A It is.

Q Now, marijuana is -- well, first of all, alcohol, it's known to be a central nervous system depressant, right?

A It is.

Q Okay. And marijuana actually is a central nervous system depressant, a stimulant and hallucinogen; is that how it would properly be qualified?

A Well, I know it can be. I haven't refreshed up on the latest on the marijuana effects.

Q And so depending on what effect marijuana has on somebody, there's no way to know what type of interaction alcohol and marijuana would have, is there?

A Right. Well, I can't use the autopsy findings or the toxicology to predict how he was acting around the time of his death. And I will point out that alcohol is seen as a depressant, but sometimes it depresses your -- what's the word I'm looking for? The things -- inhibitions?

Q Inhibitions, that's correct.

A Yes, inhibitions, and so if your inhibitions are suppressed, as if you are present, then you can also act out. Again though, I can't say from my numbers how he was actually acting.

Q By inhibitions you mean how aggressive someone might be --

A Well --

Q -- acting completely --

A -- or animated or --

Q -- different, happy, sad, mean, angry, funny?

A Yes.

Q All right. And from a pharmacological point of view, marijuana added to that could have enhanced the effect of alcohol could it not?

A Yeah, I don't know.

Q Okay, all right. Thank you, Doctor.

A Uh-huh.

MS. MOLINA: No redirect.

THE COURT: All right, thank you, Doctor, you may step down, and you may be excused from your subpoena.

WITNESS: Thank you.

MS. MOLINA: At this time the State rests their case.

**

STATE RESTS

THE COURT: All right, thank you, Doctor, you may step down, and you may be excused from your subpoena.

WITNESS: Thank you.

THE COURT: And, ladies and gentlemen, at this time I'm gonna be required to ask you,

once again, to retire to the jury room, while I discuss some matters of law outside your presence with the attorneys.

I'll remind you it's too early to begin discussing the case, so if you would please -- I hope to be back in touch with you shortly, but you can never tell sometimes.

(Jury exits the courtroom.)

BAILIFF: The jury's cleared, the door's closed, Your Honor.

THE COURT: All right, any motions

MR. LEE: Yes, sir. Your Honor, at this time I would renew our previous stand your ground motion, which we heard testimony in on Monday.

We did it primarily through Investigator Byrd and a lot of hearsay, etcetera, which was fine, but at this point I would renew my motion for the -- or renew my objection to your denial on the stand your ground motion you made at pretrial.

I believe the evidence presented by us, certainly, by a preponderance of evidence, established that Mr. Polite was entitled to the protections provided in the -- what's known as

the stand your ground statute, 16-11-410, and the following sections.

So I would renew that at this time, and, again, you denied it, and we'll renew our objection to your denial of that motion.

THE COURT: All right, the Court notes that.

MR. LEE: Your Honor, at this time I also would move for a directed verdict on both charges under South Carolina Criminal Rule Procedure 19.

The State has charged Mr. Polite with murder, which is an unlawful killing of another with malice aforethought. It is our position that self-defense had been established as a matter of law, number one; and, number two, that the State has failed to produce even in the light most favorable to the State, which you have to view it through that lens, and the State has failed to produce any evidence or substantial circumstantial evidence showing the evidence of malice on the part of Mr. Polite.

So for those reasons I would respectfully move for a directed verdict on the murder charge, and the accompanying gun charge,

which, obviously, goes hand-in-hand with a murder charge, if you have the gun charge. We'll make that motion at this time.

I would also renew my previous motion as to your ruling that I was not able to use multiple --

THE COURT: Convictions.

MR. LEE: -- prior convictions about Althea Brown, a/k/a Pumpkin. There were substantial crimes of dishonesty, including shoplifting, multiple breach of trust, multiple forgeries.

I was only able to use one of those, and that's when the Solicitor brought it out, but we essentially at this point, Judge, have two eyewitnesses, Pumpkin, Althea Brown and Natasha Robinson. The significance of Althea Brown's testimony cannot be underestimated. Her credibility is certainly a central theme through this case. Being able to say that she had a breach of trust in 2019, quite frankly, isn't enough to deal with Ms. Brown.

There was a lot of prior albeit 10-year-old convictions, but it showed a pattern, it showed a propensity, it showed an inability for her to be truthful, and showed a lot of actions

in the past that she has done that were not truthful.

And like I say essentially fact witness-wise, you have Ms. Robinson, whose testimony, you get your own opinion of that, Ms. Brown was only able to be impeached by one prior conviction, rather than the 10 or 12 that she actually had. And then arguably, as far as the fact witness, there was some testimony inferred about the statement that Stephan's former and him gave to police.

So my argument at the time was that Ms. Brown's testimony was central to the State's case, but here credibility was a very big issue in that. And with her being essentially 50 percent of the fact witnesses the State presented, I think that denial of that -- our ability to do that was highly prejudicial and was not appropriate under the prevailing law.

So I would renew that motion, and add that to it, since beforehand we didn't have a chance to argue it.

THE COURT: All right, thank you, Mr. Lee. Solicitor?

MS. MOLINA: As to the immunity hearing,

the State would rest on its previous argument. And the State would also rest on its previous arguments related to the admissibility of Ms. Brown's prior convictions.

Related to the argument presented by the defense for the adopted admissions, the State relied on the fact that his former lawyer was acting as an agent under 801D2D, in that he was a person authorized to make a statement on behalf of the Defendant, under 801D2C, in addition to the statements made by the Defendant himself under 801D2A.

The State would also point to 801D2D that the Defendant's failure to rebut or refute the statements made, became an adopt of admission, looking to State v. Sharp, 239SC258. As to directed verdict, multiple witnesses testified that night as to the malice.

And before I get into that, just to begin with, State v. Burdette, 427SC490, a 2019 case Court, but that case says the trial court may consider the use of a deadly weapon as malice, at the directed verdict stage. In addition, multiple witnesses testified as to the fact that during the argument, the Defendant

went to his car, armed himself with a gun, he then went back and pointed the gun at the victim.

They argued some more, and when confronted by the victim, the Defendant pistol-whipped him twice, and they continued to beat him, and that's over the course of some hours the whole interaction took place. And then as the Defendant got in his car and started pulling away and slowed down to let the ride that he called for the victim in, he opened the door and shot him.

And that testimony came from multiple witnesses and is certainly indicative of malice. Additionally, one of the witnesses said that while pointing the gun at the victim, initially, he threatened to put him in a wheelchair. For self-defense to be established, the four elements of being without fault in bringing on the difficulty, it's certainly evident that the Defendant was the cause of the difficulty.

As I stated in the immunity hearing, that lack of judgment, affording the opportunity for conflict does not come out to misconduct. Just because the victim was drunk and maybe

argumentative and offensive doesn't mean that the Defendant then is entitled to shoot and kill him or that is he without fault in bringing on the difficulty in going to his car and bringing in a gun, pointing the gun at him, threatening him, beating him, and then shooting him as he's driving away.

The second prong is reasonableness on the part of the Defendant, the subjective. There's been no indication that at any point the Defendant was afraid of the victim. Testimony that he was angry, maybe frustrated, but never scared. And at the time of the shooting there's also been known testimony that he was actually being attacked, and so it goes to the belief. In this case, there's no evidence that he believed he was in actual fear for his life. The third prong, the objective standard, there were multiple people at this gathering, and some of which had the same interaction with the victim initially, and did not react, and that's the patting down and name calling.

Those witnesses -- or those partygoers did not go to the gun -- or to their car and retrieve a gun, and then point it. In fact,

everybody tried to break it down -- break it up. I believe it came out that maybe the homeowner, at one point, went and got a gun because he was offended, and another person stepped in, and said, "Don't do this, he's our friend."

And at that point the Defendant put the gun up, or she took it, but either way they did not engage and shoot the victim, unlike the Defendant who after pleas to put the gun up, responded with he -- "I want him not to mess with me."

The fourth prong is the duty to retreat. In this case, the Defendant was in his car on the way out. When the victim, and after being beaten by the Defendant, runs after and pounds on his door, there's been no evidence presented that the victim ever opened the door, or tried to get inside, but that the door opened, the shot fired, and the Defendant opened the door, and then left. Not only did he have a duty to retreat, he had the ability.

Immunity is grounded in necessity, and certainly somebody has the right to defend himself, but the force must be reasonable, and you can use a little more force, but you can't

jump to deadly force. In this case, the amount of force used by the Defendant was not reasonable, and another reasonable ordinary person in his own position would not have done that. Witnesses testified "That he could have just gone, why didn't he just go?" And going back to directed verdict, defense argued malice, but under the aforethought.

It's the State's position that Defendant formed that malice when he went and got the gun, and then continued to have that malice throughout the night, and, in fact, at some point he went through, by going to his car. It wasn't a good faith withdrawal.

He -- it had been seconds, he then rearmed himself, and then made the decision to open the door and shoot, as shown by the forensic evidence and witness statements. And so the State would submit there's enough evidence in the light most favorable to the nonmoving party.

THE COURT: All right, thank you, Solicitor. Any response, Mr. Lee?

MR. LEE: The only thing I'd add is State v. Bryant. I mentioned it. There is a

right to have someone's right to self-defense restored is by words or action to say good call, from any type of confrontation.

Clearly, he has a right to self-defense was restored at that point. There's evidence that Mr. Rivers is right at his car, banging on it and doing whatever else. There's evidence that a door opened, but there's no evidence who opened that door.

I think the testimony was they didn't know, and then there's the shot on the right side of the car. So I would also argue as an alternative, you need to re-evaluate the assessment, starting with Mr. Polite's leaving, or trying to leave, and not being allowed to do so, I think the right to use self-defense restores at that point, based upon the actions of Mr. Rivers throughout the night. It's clear that he was in fear, that a reasonable person would have been in fear, and I think that's another way to -- the Court needs to evaluate the self-defense argument.

THE COURT: Thank you.

MS. MOLINA: The State -- their response to State v. Bragg would rest on its argument of

State v. Slater, that the action of getting the gun out of the car was the proximate cause of the fatal shooting, and of the difficulty, but for that action this would not have happened.

And also for State v. Slater for the withdrawal and start and retreat to the safety of the car after an insult. As for in response to the testimony related to open the door, Pumpkin stated the Defendant opened the door. And, additionally, the statements put forth regarding the Defendant and his version of what happened amounts to maybe an accident, that in the struggle for the gun in the car the gun went off, and so by his own statements it was not self-defense either.

THE COURT: All right, thank you. Wasn't there one of the witnesses who said that they saw the Defendant open the door?

MR. LEE: No.

MS. MOLINA: Pumpkin didn't.

THE COURT: I thought one witness said that.

MR. LEE: She --

THE COURT: I don't remember who it was.

MR. LEE: -- saw him inside the car and

saw him open the door.

MS. MOLINA: She said -- she stated that Defendant, when I asked her, she stated, "Defendant opened the door."

THE COURT: That's my recollection.

MR. LEE: I think that that should stand on -- I mean any common sense should tell you there's no way someone could see who opened the door from not being right there.

So I mean give it whatever weight you want, and, you know, I know it's of credibility, but I think that's common sense to suggest that someone can actually testify that she saw someone from inside a car open a car door.

MS. MOLINA: That wasn't her testimony. She stated that she saw him banging --the victim banging on the car --

THE COURT: Right.

MS. MOLINA: -- and then the Defendant opened the door.

MR. LEE: Which is why she had the other way, but nevertheless, I get what the standard is, I understand it, but I don't put that as accurate or reliable testimony.

THE COURT: All right, the Court agrees

with the argument and the position that's taken by the State as to these motions, and for those reasons, as well as the reasons previously stated in the stand your ground hearing, the Court denies the motions.

Anything else then, Mr. Lee? Any other motions I mean, I'm sorry.

MR. LEE: Judge, no other motions at this time. We are prepared to present our case. It is my intention to retweet, recall Byrd, and my client has indicated to me that he does intend or wants to testify, and he understands the potential pitfalls and benefits, etcetera, so that's our plan, to recall Detective Byrd briefly, and then call my client.

THE COURT: All right, let me go ahead and take this opportunity to discuss with your client his right to testify.

MR. LEE: Yes, sir.

BY THE COURT:

Q Mr. Polite, at this time, I'm going to explain to you certain of your rights, and if any time you don't understand anything I say, please ask me to stop, and I'll try to explain it to you further.

We've now reached the stage in the trial, where you may -- well, you have the right to present your defense. And I'll tell you that you have the right claim the protections given you by the Fifth Amendment to the Constitution of the United States. This Amendment states, in part, as follows: "No person shall be compelled in any criminal case to be a witness against himself."

This means cannot be required to testify. You have the right to testify on your own behalf, however, no one can make you testify. This is a personal right, and no one can waive this right except you. If you decide to testify, you will be subject to the same rules that govern other witnesses, and you may be examined, and cross- examined, on any relevant issue in this case.

And in addition, if you have any convictions involving dishonesty, or for false statements, or for crimes punishable by imprisonment for more than one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the Solicitor will be

able to introduce your record to attack your credibility.

If you decide to testify, this decision on your part must be made freely, voluntarily, with the knowledge of the protections given to you by the Fifth Amendment, and the consequences of your decision to testify. If you decide not to testify, I will instruct the jurors that they cannot give that fact, the fact that you did not testify, any consideration whatsoever, and that there is to be absolutely no prejudice to you, because you did not testify.

It is left entirely up to you, as to whether or not you testify, and you may discuss this matter with your attorney, or family, or friends, or anyone else, but the final decision is actually up to you. Do you understand so far what I said?

A Yes, sir.

Q Do you have any questions about it?

A No, sir.

Q Have you had a chance to discuss this with your lawyer?

A Yes, sir.

Q All right, have you made a decision?

A Yes, sir.

Q And your decision would be?

A I want to testify.

Q Okay.

THE COURT: Well, you'all want to take five before we bring the jury back in?

MR. LEE: Kymberlee does, so I do, yes, sir.

MS. MOLINA: Yes, sir.

THE COURT: All right, we'll take a short recess.

(RECESS)

PROCEEDINGS CONTINUED

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THE COURT: Is the State ready for the jury?

MS. MOLINA: Just prior before bringing the jury back, since the Defendant has indicated that he wants to testify, and I don't know what he's going to say, but in the interview, he does refuse to answer some questions. And so it's the State's position that if he gets on the stand, that I have the ability to cross him on any silence or refusal to answer those questions.

And it's not a Lyle violation commenting on his right to remain silent, and I hand up State v. McIntosh to the Court.

MR. LEE: And I think she can call Mr. Moss over here, if she wants to attribute everything -- I mean she wants it both ways.

MS. MOLINA: I don't want it both ways, it's allowed under 801D2, and it's also allowed under this case, when he refuses to answer certain questions, specifically, on page 7, that Doyle did not bar cross-examination into prior inconsistent statements made by a defendant in a voluntarily statement after he received the warning.

The State may point out the Defendant's silence prior to the arrest, or silence after arrest, but prior to giving the Miranda warning. In order to impeach the Defendant's testimony at trial, due process is not violated, because such silence is probative and does not rest on any implied assurances by law enforcement authorities.

So the things said by his agent during the interview and also said by the Defendant are admissible under 801D, and the questions or

incomplete answers that the Defendant gives silence is allowed under this case. And I just wanted to bring it to the Court's attention, instead of waiting until cross.

MR. LEE: There's a transcript of what transpired in virtual court, and what she's talking about is, they talk about the gun, we get finer details of the gun.

He said Jim Moss picked it up and gave it back to you, did he put it in your car, Jim Moss, not Stephan, what Jim Moss says, I can't let him talk about that right now. So it's -- as long as she --

MS. MOLINA: And --

MR. LEE: That's certainly -- I mean if she's gonna do it, which I don't think she's gonna be able to do. She can do it, but I don't think she can, you know, I think she needs to go straight by the transcript.

MS. MOLINA: In the video the investigators ask the Defendant the question, and he hesitates and Mr. Moss looks at him, and then Mr. Moss says, "We're not gonna answer." Obviously, the Defendant not wanting to answer the question and Mr. Moss picking up on that.

There's also a point at which the investigators asked, if the victim was saying anything at the time, and Mr. Moss offered, "I'm sure he was cussing," and looks over at the Defendant, and the Defendant refuses to say what, if anything, the victim was saying at the time.

And so those are certainly probative, and allowed by the rules to impeach, and it's certainly allowed by the rules if -- I imagine it's gonna come out that the Defendant was fully cooperative, and he wasn't fully cooperative, and the State has to be able to impeach him thoroughly, and can do that through his silence.

MR. LEE: I mean --

MS. MOLINA: -- also.

MR. LEE: I'm sorry.

MS. MOLINA: No, that was it.

MR. LEE: He invoked his right to remain silent. I mean you don't have to -- you can go and tell somebody voluntarily, but you don't have to answer all their questions. And for them to comment on him invoking his right not to answer certain questions is improper.

THE COURT: Well, just --

MR. LEE: You don't have to -- it's not the part why don't you go in there and talk, and say, "Well, let me ask you about something else," or "let me ask you about these details." He can assert Miranda any time he wants to on any question he wants to.

You don't have to answer all their questions. You can answer some of them, and say, "I ain't answering that question," and that's invoking Miranda, and that is improper for them to say, "Well, he didn't answer this question, so that must mean he's hiding something."

You can invoke Miranda on certain questions, and talk on other questions, which is exactly what he did with his lawyer there. The lawyer said, "I'm not gonna let him answer that question." It couldn't be any clearer, if he's not gonna answer that question.

And to say, "Well, he wouldn't answer that question, therefore, we're gonna assume that there was something bad to say about that," I think is inappropriate. Just because he talked to you doesn't mean he has to answer every question, and you have to cease the

interview. He may say, "I'm not answering that question, but ask me another question," and you can certainly do that. So that's clearly commenting on him invoking his rights under Miranda through his lawyer, who's right there, who knows what Miranda is.

He hasn't been Miranda, but he knows it. You don't have to be read Miranda to invoke Miranda, and it couldn't be clearer that that's what he's doing.

THE COURT: Solicitor?

MS. MOLINA: He was not Mirandized, because he was not in custody at the time. They had not gotten warrants. He was actually the first person that gave them any kind of details about what happened. And certainly you can invoke your right to silence, but you can reinitiate it, and it's awkward to impeach, if he were to say he was fully cooperative, and he cooperated with police, because it's not true. He --

THE COURT: All right, so --

MS. MOLINA: -- didn't fully cooperate.

THE COURT: -- the purpose of your asking this Defendant if he refused to answer a

question; is that what we're talking about?

MS. MOLINA: Yes.

THE COURT: So I'm following it right?

MS. MOLINA: Yes.

THE COURT: The purpose of you doing that is to counter, potentially, the Defendant's assertion that he was fully cooperative.

MS. MOLINA: That he cooperated, and also if he were to say something now related to what the victim said to him, to be able to impeach him and say, "But you didn't tell investigators that during your interview."

So it goes to the same cooperation point, but if now he's saying something that he didn't say in the interview, his silence would be an inconsistent statement as stated in the case that I handed up.

THE COURT: All right, I'm gonna take this under advisement. Didn't you indicate that another witness is going to be testifying first?

MR. LEE: Yes, sir.

THE COURT: I'm gonna try to read this case in a bit more detail, but my inclination is you can't hold it against the Defendant the fact that his lawyer told him not to answer a

question, and I haven't finished reading the case. All right, having said all that, are we ready for the jury?

MR. LEE: Yes, sir.

THE COURT: Let's bring the jury in.

BAILIFF: The jury's entering the courtroom, Your Honor.

(Jury enters the courtroom.)

THE COURT: Ms. Molina, you've already rested on the record, haven't you?

MS. MOLINA: Yes, sir.

BAILIFF: The jury's seated, Your Honor.

THE COURT: Welcome back, ladies and gentlemen, if you recall, the State rested its case against the Defendant. The Defendant now has the opportunity to present evidence if the Defendant should decide to do so. Mr. Lee?

MR. LEE: Thank you, Your Honor. The defense calls lead investigator, Sergeant Robert Byrd.

THE COURT: And I'll remind you, you're still under oath.

**

DIRECT EXAMINATION

BY MR. LEE:

Q So to reiterate, you're the lead investigator on this case, right?

A Yes, sir.

Q But you weren't the only investigator, Todd Duncan, who's also an investigator was involved in this case; was he not?

A At the time that he was Staff Sergeant, he would be my immediate supervisor, and he was involved.

Q Okay, Duncan was your supervisor?

A Yes, sir.

Q Does he still work as an investigator?

A He's now a Master Sergeant of Investigations.

Q So he's got promoted, all right. And he took part in this investigation; did he not?

A He assisted me.

Q Okay.

A Yes, sir.

Q He interviewed witnesses, correct?

A He did --

MS. MOLINA: Objection.

MR. LEE: I'm not asking what they said,

I'm just asking his role in the investigation.

MS. MOLINA: He's asking the witness about things that somebody else did, so this --

MR. LEE: He's the lead investigator, so everything comes through him.

THE COURT: Overruled, you may go ahead.

BY MR. LEE:

Q Master Sergeant Duncan interviewed several witnesses in this case; did he not?

A He interviewed -- the night of the incident he spoke to some homeowners, or the homeowner, and then he was present with me as we conducted interviews for witnesses.

Q And by homeowners you mean Alexis Smalls and Arthur Washington?

A Yes, sir.

Q Okay. And then by witnesses, you're talking about Althea Brown?

A Staff Sergeant Duncan -- Master Sergeant Duncan was present during the interview of Althea Brown.

Q As well as Natasha Robinson?

A He was present during the interview of Natasha Robinson.

Q All right. Let me ask you a little bit

about this area out there on St. Helena.

Is it kind of called Scott, kind of the community?

A It's the Scott Hill community.

Q Scott Hill, okay. And in the Scott Hill community, and I think as part of your investigation you actually went out there, isn't there something called Chaplin's Grocery store?

A Right there in the area of Scott Hill there is Chaplin's Grocery, commonly referred to as Chap's.

Q Chap's? All right, and that's kind of -- isn't there a big tree out front or something of the store, people gather around and talk and stuff?

A There is.

Q Okay. And so that's kinda like the local gossip place, isn't it? Isn't there a lot of people to and fro, and in the front talking, that sort of thing, hanging out?

A Well, I'm not a local, and I'm law enforcement. They don't really talk to me there I --

Q They don't invite you out there?

A No.

Q Okay, but as part of the investigation in the past and part of this investigation, you actually went out there as part of this investigation, right?

A I did. I went out there, it's at an intersection, Chaplin's Grocery, and it's where -- as a law enforcement officer I know that people in the community do go there. It's a quick way to grab a soda, or a drink, or something, and I spent some time out there talking to anybody that was frequenting the place, trying to get some information in the days -- immediate days after this.

Q Because that's a pretty logical place, because people go there, they gather there, they talk there, talk about things going on, right, and that's why you went there?

A Right, the streets talk, yes, sir.

Q Streets talk, okay, all right. So you went there and is it safe to say the streets were talking some. There were people that had some information that told you some things and knew details about this case; is that safe to say?

A There -- that's true. You have to take

that as an investigator, "Were you present?" "No." Okay, so now it's just a rumor.

Q Okay, but it's safe to say there were probably rumors flying in the Scott Hill community, and the one place they fly a lot is the Chaplin's Grocery, right?

A The logical place.

Q Okay. Tell the jury what street Chaplin Grocery's on.

A On St. Helena's Island, right there at -- what's the road? Give me one second.

Does it turn to Capers right there?

Q I don't know.

A Well, I know it turns right there, the intersection.

Q It's on Storyteller Road.

A Storyteller Road, but does it turn right there at the intersection?

Q But it's right there at Storyteller Road, correct?

A Correct.

Q Okay. Now, also as part of your investigation what I'm saying, you said it, didn't you obtain information in your investigation that Anthony Rivers had been at

the liquor store on St. Helena, and had purchased a bottle of Jose Cuervo Tequila? Do you remember getting that information?

A 257 Storyteller Road.

Q 257 Storyteller Road.

A Sorry, sorry about that.

Q Okay, yeah.

A We did obtain information that he was with some person, and they had a -- they had bought some alcohol.

Q And specifically they had purchased Jose Cuervo Tequila though, right?

A That's my understanding, yes, sir.

MR. LEE: That's all I have, Your Honor. Thank you, Sergeant Byrd.

THE COURT: Cross-examination?

**

CROSS-EXAMINATION

BY MS. MOLINA:

Q And, Investigator Byrd, you talked to multiple people in the days following to figure out what happened?

A Yes, ma'am. In the days following -- it happened on Friday night, Saturday morning, I spent all -- pretty much all day Sunday out at

Chaplin Grocery. Any person, tourist, local, whatever, if they came in, I was asking them, "Hey, have you heard," and I spent all day Sunday out there trying to find something, and Monday.

MS. MOLINA: No further questions.

MR. LEE: No follow-up, Your Honor.

THE COURT: All right. Thank you, sir, you may step down.

MR. LEE: Your Honor, the defense calls Stephan Polite to the stand.

**

STEPHAN POLITE,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MR. LEE:

Q All right, Stephan, are you okay?

A Yes, sir.

Q Are you nervous --

A Yes, sir.

Q -- being here, or what?

A Yes, sir, I'm fine.

Q Okay, all right. Fortunately, we have some people here, can you kind of tell us --

generally tell us who these people are that are sitting behind us? You don't have to go by name, just kind of --

A That's my mom, my little sister, and my father, and my cousin, my girlfriend, my coworkers, my supervisor.

Q Your coworkers your supervisor at work?

A Yes, sir.

Q If you need something, just -- we've got time. Do you need some water, man?

A I'm fine.

Q Okay, all right. Those are family, friends and coworkers?

A Yes, sir.

Q Okay. And they've stuck with you through all of this?

A Yes, sir.

Q Okay. All right. Stephan, where do you live?

A At 24 Sycamore Hill, St. Helena's Island.

Q 24 Sycamore what?

A 24 Sycamore Hill, St. Helena's Island, I stay with my parents.

Q And what part of St. Helena's Island is

that?

A Near Capers.

Q Near Scott Hill you mean?

A Yes, sir.

Q Do you know where Chaplin's Grocery is?

A Yes, sir.

Q Okay. All right, so let's just get a little bit of background. Did you grow up in St. Helena?

A Yes, sir.

Q All right.

A Yes, sir.

Q And who did you live with growing up?

A I was back and forth. I stayed with my grandmother and my stepfather, because basically my father was in the military, so I traveled with him.

Q So you lived over there?

A Yes, sir.

Q So you lived -- he was in the military and traveled some?

A Yes, sir.

Q So you were kind of an Army brat, Navy brat, kind of moved around a little bit?

A Yes, sir.

Q But St. Helena's always been home, right?

A Yes, sir.

Q Okay. All right, so did you go to school around here, or you bounced around schools? Where did you go to school?

A Yes, for the most part I went to the local schools in St. Helena.

Q Did you graduate from high school?

A Yes, sir.

Q Okay, and after high school what did you decide to do?

A I joined the military.

Q You joined the military?

A That's right.

Q What --

A The Navy.

Q The Navy?

A Yes, sir.

Q Okay. And approximately what year was that? You were, what, 18-years-old?

A Yes, sir, it was right after school, so 2007.

Q How old are you now?

A I'm 34.

Q 34, okay. So you joined the Navy, following in your stepdad's --

A Yes, sir.

Q Okay, and how long were you in the Navy?

A I did four years.

Q You did four years, and what was your -- where were you based when you were in the Navy?

A I was in Norfolk, Virginia and partially Portsmouth, Virginia.

Q Okay, and then what did you do in the Navy, as far as a job description.

A I was an aviation boatmate for an aircraft carrier.

Q Uh-huh.

A What we deal with -- I just basically moved aircraft and --

Q Okay.

COURT REPORTER: Sir, you're gonna have to speak up a little bit, I can't hear you.

BY MR. LEE:

Q She needs to hear everything you say, all right?

A I was an aviation boatmate, an aircraft handler. I was -- what we did was move aircraft.

Q And that was in Virginia?
A Yes, sir.
Q Okay. When you were in the Navy for the four years, did you meet anybody special?
A Yes, sir.
Q And who was that?
A The mother of my kids.
Q The mother of your kids? What's her name, Stephan?
A Folton.
Q Okay, and so you and her have kids together?
A Yes, sir, I have a daughter and a son.
Q Okay, and how old's your daughter?
A She's 12.
Q And what's her name?
A Samaya.
COURT REPORTER: Sir, I can't hear you.
BY WITNESS:
A Samaya
Q Samaya, okay. And what's your son's name?
A Omari.
Q Omari? How old is Omari?
A He's 9-years-old.

Q All right, did you and -- and she was in the Navy as well when you met her?

A Yes, sir.

Q Okay. Did you'all ever get married?

A No, sir.

Q Okay.

A No.

Q But you have two kids together.

Do you still live with her?

A No, sir.

Q Okay. Where does she live?

A She stays in Virginia.

Q Okay, do the kids stay with her?

A Yes, sir.

Q Okay. Do you get to see your kids?

A I get them every summer, but I've been going through this, so I've been coming -- trying to go see them. I pick them up. What I do is get them every summer.

Q You get them every summer and they come down here?

A Yes, sir.

Q And then you say that you try to visit them some, but since this has been going on you haven't been able to do as much because of this

incident?

A No, I haven't.

Q Do you support your kids --

A Yes, sir.

Q -- financially?

A Yes, sir.

Q Do you keep up with how they're doing in school, and that sort of thing?

A Yes, sir.

Q All right, so four years in the Navy in Virginia, and then after that when you got out what did you do next?

A I was a stay-at-home father for a while, I raised my daughter, then I moved back home.

Q Home being here?

A Yes, sir.

Q Okay, all right, and she stayed up there? Your daughter and your son and your ex?

A Yes, sir.

Q At some point did you and the mother of your children decide to not be together anymore?

A We decided because it would be the best for us.

Q All right, the best for your kids?

A Yes, sir.

Q All right, so you came back home. What did you do when you came back home to St. Helena, as far as work goes, or training, or school, what did you do?

A Before I left -- while I was a stay-at-home father, before I left Virginia, I went to Tidewater Tech and picked up a trade in HVAC.

Q Tidewater Tech in Virginia?

A Yes, sir.

Q And then I know you know what HVAC means, but what does HVAC mean? Heating Ventilation and Air Conditioning?

A Heating Ventilation Air Conditioning.

Q Okay, so you learned a trade up there at Tidewater Tech?

A Yes, sir.

Q Okay. Did you use that training to get a job in that area?

A No, sir, I moved back home --

Q Okay.

A -- to where I furthered my career at BJWSA Water Company.

Q Agan, that's another acronym, known as?

A Beaufort Jasper Water Sewer Authority.

Q Okay, and what was your job there for

that time?

A Post Security Officer.

Q And how long did you work at Beaufort Jasper Water Sewer?

A About four years.

Q Okay. Are any of the people out there people you work out there in Jasper?

A No, sir.

Q Okay, but you stopped working at Beaufort Jasper, when in '20, '21?

A It was somewhere around there, yes, sir.

Q What?

A It was somewhere around there, yes, sir.

Q Okay, all right. And what was your next job?

A I worked for Beaufort County Storm Water Department.

Q Okay, and what -- and you still work there now?

A Yes, sir.

Q Okay, and the people out there, those are people from work?

A Yes, sir.

Q And How long have you worked at Storm Water for the County?

A From the time I left the Water Company.

Q And what exactly do you do for the Water Sewer Company?

A I'm a crew-hand.

Q Okay.

A I'm an operator, I'm an Op 3. That's what I do is, I operate heavy machinery. I have my CDL, so I drive a dump truck, and forklift, and I make sure my crew is safe.

Q Okay, good. And let me back up for a second. In the four years that you were in the Navy, did you receive any type of firearms training, safety training, anything like that?

A Yes, sir.

Q Did they have you qualified at the range, and do stuff like that with weapons?

A Yes, sir.

Q Okay, so it's safe to say that you're comfortable with, and know how to operate firearms?

A Yes, sir.

Q Okay. And I think there was some testimony about an ATF form. You actually bought a firearm in 2010, correct?

A Yes, sir.

Q Okay. So let's fast forward to -- where were you working in 2017, like early 2017?

A Early 2017 I was at the Water Company.

Q The Water Company?

A Yes, sir.

Q Okay. Was there anything in early 2017 that caused you to miss any work?

A Yes, sir.

Q Okay. Can you tell us a little bit about what caused you to miss some work in 2017 from work?

A I was at a card party.

Q A what?

A I was at a card party.

Q Okay, a card party. Not the one we're talking about tonight -- today?

A No, sir.

Q A different -- you were at a card party?

A Yes, sir.

Q Okay.

A And I was an innocent bystander and I got shot in my leg.

Q You got shot at while at a card party?

A Yes, sir.

Q Were you the intended target?

A No, sir.
Q Who shot you?
A I don't know.
Q Where'd you get hit?
A In my upper left thigh.
Q And what kind of injuries did you have from being shot at the card party?
A I got a bullet wound in my leg.
Q And that was 2017?
A Yes, sir.
Q All right, but you got through that, you went back to work, you're still working --
A Yes, sir.
Q -- now, so let's go back to May 29th, 2021, okay?
A Yes, sir.
Q Okay. And I know that when the Solicitor started the case, she played a -- I think a 13-minute video on the screen that was a 911 call; do you remember that?
A Yes, sir.
Q Okay. And it appeared that you -- that that upset you, right?
A Yes, sir.
Q All right. And had you ever heard that

audio before in court?

A No, sir.

Q Okay. And just in your own words can you tell us what caused you to get a little emotional about hearing that video -- that audio?

A Because that was my family.

Q I can't -- I'm sorry?

A Because that was my family, man. That was somebody I cared about, and --

Q At the end of the day was your family somebody you cared about. When you talk about somebody you cared about, you're talking about Anthony Rivers, Jr.?

A Yes, sir.

Q Let's talk a little bit about that. Are you okay?

A Yes, sir.

Q Do you need to take a break or anything, or are you good?

A No, I'm fine.

Q Okay. So Anthony Rivers, Jr., how long have you known him?

A All my life.

Q All your life?

A Yes, sir.

Q And you said your cousin's house? The family tree, as far as how are you'all -- who's connected on his side? How are you related to him?

A By my father.

Q By your father?

A My biological father.

Q Okay, and your father is --

A Vincent.

Q -- what to Rivers?

A Cousin.

Q Your father's cousins with his dad?

A Yes, sir.

Q Okay. So you connect -- so you've known him since you grew up?

A Yes, sir.

Q How would you describe your relationship with Anthony Rivers, Jr.?

A It's a good relationship.

Q Huh?

A It's good.

Q Okay. Do you'all hang out together?

A Yes, sir, for the most part, yeah.

Q What did you say?

A I say for the large part.

Q She's having trouble hearing you. You said you did a lot for him?

A Yes, sir.

Q And because he wasn't as fortunate enough as you?

A Yes, sir.

Q And fortunate financially, or family-wise or what?

A Both.

Q Okay. So what did you do to help him out?

A Like mostly, like, he didn't have lots of clothes, I gave him clothes, I gave him shoes. If he had need issues, if he had needed a ride or anything, or I'd see him walking the road, I'd give him a ride.

He'd come here to see me, and to see my grandma. My grandma would give him money and stuff like that.

Q Just take your time, okay? That's it.

A Okay.

Q Mr. Rivers has been described by some people, prior to this, as happy-go-lucy, easygoing; would you agree with that?

A For the most part, yes, sir.

Q Okay, for the most part? All right, let's go back to -- I hate to jump around. Let's go back to the 2017 card party where you were an innocent bystander and got shot.

Do you know, where was that card party?

A It was on Storyteller Road.

Q Storyteller Road? Okay, and whose house?

A At -- at the time it was Ezekiel Johnson's house.

Q Does he go by Zek?

A Yes, sir.

Q I think we've heard that name before. Zek Johnson, does he have any connection with this case?

A The only connection would be his cousin, Natasha Robinson, that was up here.

Q Zek Johnson is Natasha Robinson, a/k Banger's cousin?

A Yes, sir.

Q Okay. And then the person that was ultimately charged in that shooting was a guy named Wesley Washington, right?

A Yes, sir.

Q And you knew him?
A Yes, sir.
Q Okay. Is he any relation to Art Washington, whose name has come up quite a few times that you know of?
A Not that I know, not to my knowledge.
Q Okay, does -- Wesley Washington who was charged with the shooting, does he have any connection to anybody else in this case?
A Yes, sir.
Q Who's that?
A He's -- his name is Rattle, and it'd be Pumpkin's cousin.
Q Wesley Washington is the one who was charged with that is Pumpkin's cousin?
A Yeah, I believe that's right.
Q Okay.
A 'Cause that's the person --
Q So there's -- that community out there, there's a lot of relations and people, and you see the same people a lot, right?
A Yes, sir.
Q Okay. Have you ever had any discussions, or do you know if Banger and Pumpkin know about that card game incident in

2017?

A Yes, sir.

Q They do know?

A Yes, sir.

Q Okay.

A Yes.

Q Did you ever talk to them about it, or it's just they've got to know, or they do know? Everybody knew?

A Everybody that was --

Q 'Cause everybody at that time at Chaplin's Grocery was talking about that?

A That's the area.

Q All right. Did Anthony Rivers, Jr. -- did you ever have any discussions with him about the 2017 incident, where you were shot in the leg?

A He knows, I don't know -- I can't recall if I personally talked to him about it, but everyone knows about it.

Q And Anthony hangs around that area, so he --

A Yes, sir.

Q Okay.

A Yes, sir.

Q All right, so let's go back to the May 29th. What had you done -- I don't need to know what you had for breakfast, but what had you done -- like that was a Saturday, right, the 29th?

A I believe so.

Q Or Friday, Friday --

A yes --

Q Sorry.

A -- morning into Saturday.

Q And it was a long Memorial Day weekend, because Memorial Day was gonna be on Monday, right?

A Yes, sir.

Q So that -- do you remember what you did that day, prior to going over to Keystone Drive?

A I believe I was at home.

Q At home? Okay. Were you at home all day drinking?

A No, sir, I don't drink.

Q You don't drink?

A No, sir.

Q Were you at home all day smoking weed?

A No, sir.

Q Were you at home all day drinking Jose

Cuervo, or taking amphetamines?

A No, sir, I don't do none of that.

Q So later in the evening at some point -- how do you end up going to the G shed?

A Arthur Washington called me over there.

Q Arthur Washington invited you there?

A Yes, sir.

Q Had you been over there before?

A It's like they call me every week to come.

Q Okay, and do you play cards with these people a lot?

A I don't, you know, I do.

Q Okay.

A Yeah, I do, but I normally -- I have -- like Natasha said, at first we had a circle, and then, you know, it turned into these card parties.

Q Okay.

A So I've been to a good bit of them, yes, sir.

Q And we heard a little bit of testimony about these card parties. One of the regulars is usually the host or hostess; is that right?

A Yes, sir.

Q Have you ever hosted one?
A No, sir.
Q So you usually just go?
A Yes.
Q And the host, or also the house --
MS. MOLINA: I've got an objection to the leading questions.
THE COURT: Sustained.
MR. LEE: Okay.
BY MR. LEE:
Q Can you tell me a little bit about these card parties, about how they get organized, and that --
A Yes, sir. They try to call as many people as they can to produce as much -- that produces the money.
Q They try to call as many people as they can to produce as much money?
A Yes, sir.
Q So the host tries to call as many people as he or she can to get the more money into the game, right?
A Yes, sir.
Q Okay, and they called you, because you know -- they know you'll go, and you'll gamble?

A Yes, sir.

Q Okay. And they called you this night?

A Yes, sir.

Q Arthur Washington called you and said, "Hey, the party -- there's a card party going on at the G shed tonight", right?

A Yes, sir.

Q Okay. Who was the host that night?

A Natasha Robinson and Renee Brown.

Q Okay. And what are their duties as hostesses of a card party?

A To keep the card players happy and keep them there.

Q Okay. Is it in their interest for more people to go, more money, and stay as long as possible at the party?

A Yes, sir.

Q Now, Arthur Washington, does he just let them use that shed for free; or does he get something out of that?

A He gets something out of it. They have to pay the house, whatever his fee is for the house for the night.

Q And Arthur Washington makes money by simply renting out the G shed for the night to